



**State Management Plan  
for  
Federal Transit Administration Programs**

**Submitted to  
Federal Transit Administration  
By  
Tennessee Department of Transportation  
Division of Multimodal Transportation Resources  
Office of Public Transportation**

**May 27, 2016**

## **Accessible Formats**

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# Chapter 1.      **Introduction**

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The Federal Transit Administration (FTA) requires each state administering FTA programs to develop a State Management Plan to document policies and procedures for certain programs. This document describes Tennessee's policies and procedures for administering the state managed portions of:

- 49 USC §5310 Elderly Individuals and Individuals with Disabilities Program
- 49 USC §5311 Nonurbanized Area Formula Program
- 49 USC §5316 The Job Access and Reverse Commute (JARC) Program
- 49 USC §5317 New Freedom Program
- 49 USC §5339 Bus and Bus Facility

This document supersedes the State Management Plan that was approved by the FTA in April of 2015. This State Management Plan includes updates to the Section 5339 Program and includes minor updates and revisions to program administration and compliance monitoring requirements and procedures.

Prior to submitting the State Management Plan to the FTA, a draft of the amended document was circulated and comments were solicited among stakeholders, including Divisions within TDOT (Civil Rights, Legal, Finance, Programming, Long Range Planning, Information Technology), transit agencies, nonprofit subrecipients of 5310 funds, Metropolitan Planning Organizations, and the Tennessee Public Transportation Association. Emailed, verbal, and written comments were accepted from April 18, 2016, to May 2, 2016. All public comments were recorded in a Public Comment Inventory spreadsheet along with information about the disposition of each. The Public Comment Inventory is available upon request.



## Chapter 2. Program Goals and Objectives

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5310	<ul style="list-style-type: none"><li>• Ensure that elderly persons and persons with disabilities have the same rights as all people to utilize transportation facilities and services</li><li>• Continue to provide for the special needs of elderly persons and persons with disabilities for which transportation services are unavailable, insufficient or inappropriate</li><li>• To support public transportation services beyond those required by the Americans with Disabilities (ADA) Act of 1990</li><li>• Long term transportation program goals for elderly persons and persons with disabilities are discussed and established through a coordinated effort between the Rural Planning Organization (RPO) and Human Resource Agency (HRA) operating in the area. The two groups implement a public planning process to consult with and provide direct participation opportunities for rural residents, local elected officials, and transportation providers to be involved in the development of short and long range transportation and local human services coordination plans.</li></ul>
5311	<ul style="list-style-type: none"><li>• Ensure that at least minimal levels of service are available in non-urbanized areas to health care, shopping, education, employment, public services, and recreation</li><li>• Provide technical assistance and other support services to assist in the development, improvement, maintenance, and use of public transportation systems to ensure that 5311 operations are well managed, effective, and efficient</li><li>• Encourage coordination in the use of funds and the delivery of services to maximize the effectiveness of all available funding sources (other federal programs as well as state and local funds)</li></ul>
5316	<ul style="list-style-type: none"><li>• Provide connectivity for low-income persons to jobs and other support services</li><li>• Support the operation of transportation services designed to transport residents to and from employment opportunities</li><li>• Expand transportation services such as shuttles, vanpools, new bus routes, and connector services to mass transit.</li></ul>
5317	<ul style="list-style-type: none"><li>• Provide funds for new public transit service that goes beyond current ADA requirements</li><li>• Provide funds for capital improvements that go beyond current ADA requirements.</li></ul>
5339	<ul style="list-style-type: none"><li>• Ensure the continuation of public transportation services.</li><li>• Provide funds to assist eligible recipients in financing capital projects.</li></ul>

## **Chapter 3. Roles and Responsibilities**

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### **3.1 Federal Transit Administration (FTA)**

#### **3.1.1 Federal Transit Administration Headquarters**

FTA headquarters is responsible for:

- Providing overall policy and program guidance
- The provision of the annual funds apportioned to the states
- The development and implementation of financial management procedures
- The initiation and management of program support activities
- Conducting national program reviews and evaluations

#### **3.1.2 Federal Transit Administration Region IV Office**

The Tennessee Department of Transportation falls under the FTA Region IV office located in Atlanta, Georgia. The FTA regional offices have the responsibility for administration of the programs. Regional office activities include:

- Reviewing and approving state grant applications
- Obligating funds
- Managing grants
- Overseeing the state's implementation of the annual program, including revisions to the program of projects
- Receiving state certifications;
- Reviewing and approving State Management Plan
- Providing technical assistance and advice to the states as needed
- Performing state management reviews every three years, or as circumstances warrant

### **3.2 State of Tennessee**

#### **3.2.1 Tennessee Department of Transportation (TDOT)**

TDOT is authorized under Tennessee Code Annotated, Title 13 Public Planning and Housing, Chapter 10, Mass Transit, Sections 13-10-101 thru 13-10-109, to enter into agreements with any bureau, department, or agency of the United States government dealing with or concerning the planning, design, acquisition, construction, maintenance, or supervision of any public mass transportation program or system, or the operation thereof. TDOT may additionally enter into agreements with any other bureau, agency or department of the state; any city/municipality, county, school district, or other political entity of this state; or any individual, firm, partnership, corporation, association, or other organization to carry out the foregoing. TDOT may contract with consultants to provide technical assistance as necessary.

### 3.2.1.1 Commissioner of TDOT

The Commissioner of TDOT serves as the Governor's representative in all matters dealing with the United States Department of Transportation. The Commissioner signs all contracts between TDOT and subrecipients of FTA funds.

### 3.2.1.2 Division of Multimodal Transportation Resources (DMTR)

Within TDOT, the Division of Multimodal Transportation Resources (DMTR) administers all FTA programs in the state for which TDOT serves as the Designated Recipient. DMTR has the primary responsibility for the following:

- Developing and implementing public transportation programs throughout the state
- Notifying eligible subrecipients of the availability of programs
- Developing project selection criteria
- Ensuring fair and equitable distribution of program funds
- Ensuring adherence to federal program guidelines by all subrecipients
- Ensuring the maximum feasible coordination of transit resources at the state and local level
- Providing private transit operators with the opportunity to participate to the maximum extent feasible
- Providing satisfactory continuing control over assets purchased with state and federal dollars
- Regularly monitoring subrecipients to ensure compliance with FTA's regulations
- Ensuring that subrecipients possess the necessary fiscal and managerial capability to implement and manage the proposed projects
- Providing technical assistance to subrecipients
- Reporting to FTA on behalf of subrecipients

### Programs for which TDOT is the Designated Recipient

<b>SAFETEA-LU Programs</b>	<b>MAP-21 Programs</b>
<ul style="list-style-type: none"><li>• §5303 Metropolitan Planning</li><li>• §5304 Statewide Planning</li><li>• §5307 Urbanized Area Program (Small Urban)</li><li>• §5310 Elderly Individuals and Individuals with Disabilities Program</li><li>• §5311 Nonurbanized Area Formula Program</li><li>• §5316 Job Access Reverse Commute</li><li>• §5317 New Freedom Program</li><li>• §5320 Paul S. Sarbanes Transit in the Parks Program</li><li>• §5309 Earmarks and Discretionary Awards</li></ul>	<ul style="list-style-type: none"><li>• §5303 Metropolitan Planning</li><li>• §5304 Statewide Planning</li><li>• §5307 Urbanized Area Program (Small Urban)</li><li>• §5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program (Small Urban and Statewide funds)</li><li>• §5311 Rural Area Formula Program</li><li>• §5329 State Safety Oversight Program</li><li>• §5339 Bus and Bus Facilities Program (Small Urban and Statewide funds)</li><li>• §5309 Discretionary Capital Investment Grants</li></ul>

### 3.2.1.3 Other Divisions within TDOT

Division of Finance	<ul style="list-style-type: none"> <li>• Prepares TDOT's budget for submission to the General Assembly, including planned state and federal funds for transit</li> <li>• Reviews and approves the encumbrance of funds for transit contracts</li> <li>• Reviews and approves reimbursement payments to subrecipients</li> <li>• Performs ECHO draws from FTA</li> <li>• Submits FFR forms to FTA</li> <li>• Office of External Audit evaluates the financial practices of subrecipients</li> <li>• Reviews indirect cost allocation plans for those agencies for whom TDOT serves as the cognizant agency</li> </ul>
General Counsel's Office	<ul style="list-style-type: none"> <li>• Reviews and approves transit contracts</li> <li>• Executes TDOT's Certifications and Assurances</li> <li>• Provides legal counsel as needed</li> </ul>
Division of Civil Rights	<ul style="list-style-type: none"> <li>• Administers Tennessee's Uniform Certification Program (TNUCP)</li> <li>• Facilitate DBE reporting to FTA by DMTR</li> <li>• Evaluates Title VI compliance of subrecipients and provides assistance in compliance as needed</li> <li>• Evaluates EEO and Affirmative Action Plans of subrecipients and provides assistance in compliance as needed</li> </ul>
Division of Long Range Planning	<ul style="list-style-type: none"> <li>• Develops the Statewide Long Range Transportation Plan</li> <li>• Reviews urbanized areas' Unified Planning Work Programs (UPWP), long range plans, Transportation Improvement Programs (TIP) and TIP amendments, and provides opportunity for DMTR to comment</li> <li>• Administers the Congestion Mitigation Air Quality (CMAQ) program, and at times flexes funds to FTA</li> </ul>
Division of Internal Audit	<ul style="list-style-type: none"> <li>• Assists DMTR in identifying risks and developing appropriate controls</li> <li>• Performs spot-checks to test the efficacy of controls implemented by DMTR</li> </ul>
Division of Human Resources	<ul style="list-style-type: none"> <li>• Assists in developing DMTR's staffing plan as well as recruiting and onboarding new staff</li> <li>• Assists with development of individual performance plans and performance management</li> </ul>
Legislative Liaison's Office	<ul style="list-style-type: none"> <li>• Communicates with members of the Tennessee General Assembly regarding transit issues</li> <li>• Communicates with local elected officials about transit issues</li> </ul>
Division of Operational Efficiency, Office of Strategic Planning	<ul style="list-style-type: none"> <li>• Assists in developing statewide goals for growth in transit ridership</li> <li>• Reports on TDOT's performance measures annually</li> </ul>
Division of Program Development	<ul style="list-style-type: none"> <li>• Develops the Statewide Transportation Improvement Program (STIP) with input from DMTR regarding transit programs</li> <li>• Develops the Three Year Plan submitted to the General Assembly each year</li> <li>• Flexes funds from Federal Highway Administration (FHWA) to FTA, (CMAQ, Surface Transportation Program (STP), Ferry Boat Discretionary, etc.)</li> </ul>
Division of Information Technology	<ul style="list-style-type: none"> <li>• Assisting in the procurement and/or development of grant management software</li> <li>• Complies with FTA requirements for data backup and storage</li> </ul>

### 3.2.2 Other Statewide Entities

Tennessee Department of Finance and Administration	<ul style="list-style-type: none"> <li>• Maintains “Edison,” Tennessee’s centralized accounting system</li> <li>• Reviews and approves all contracts</li> <li>• Reviews and approves invoice payments to subrecipients</li> <li>• Reviews and approves purchase orders for vehicles</li> </ul>
Tennessee Department of General Services	<ul style="list-style-type: none"> <li>• Maintains a state contract for vehicle procurement that is available to public transit agencies in Tennessee</li> <li>• Maintains a statewide contract for professional services which TDOT can access as needed</li> <li>• Maintains statewide information technology contracts</li> </ul>
Tennessee Secretary of State, Records Management Division	<ul style="list-style-type: none"> <li>• Approves Public Records Disposition Authorizations</li> </ul>
Tennessee Public Transportation Association	<ul style="list-style-type: none"> <li>• Provides input to TDOT regarding potential policy or procedural changes</li> <li>• Collaborates with TDOT to develop statewide competitive grant applications for funding</li> <li>• Communicates funding needs to TDOT.</li> </ul>
Tennessee Department of Human Services	<ul style="list-style-type: none"> <li>• Serves as the cognizant agency for one or more agencies that provide rural transportation services</li> </ul>
Comptroller of Tennessee	<ul style="list-style-type: none"> <li>• Prepares TDOT’s annual A-133 audit</li> <li>• Reviews contracts prior to execution</li> </ul>
Tennessee Commission on Aging and Disability	<ul style="list-style-type: none"> <li>• Serves as the cognizant agency for one or more agencies that provide rural transportation services</li> </ul>

### 3.3 Grant Subrecipients

Potential recipients or subrecipients of FTA funds are shown below.

Category of Agency	Transit Agency Name
Regional Rural Transit Agencies	<ul style="list-style-type: none"> <li>• Delta Human Resource Agency</li> <li>• First Tennessee Human Resource Agency</li> <li>• East Tennessee Human Resource Agency</li> <li>• Mid-Cumberland Human Resource Agency</li> <li>• Northwest Tennessee Human Resource Agency</li> <li>• Southeast Tennessee Human Resource Agency</li> <li>• South Central Tennessee Development District</li> <li>• Southwest Human Resource Agency</li> <li>• Upper Cumberland Human Resource Agency</li> </ul>
Local Transit Agencies Serving Rural Communities	<ul style="list-style-type: none"> <li>• Gatlinburg Mass Transit System</li> <li>• Pigeon Forge Fun Time Trolleys</li> </ul>
Agencies in Small Urbanized Areas (Population of entire UZA 50,000 to 200,000)	<ul style="list-style-type: none"> <li>• Bristol Tennessee Transit System</li> <li>• Clarksville Transit System</li> <li>• Cleveland Urban Area Transit System</li> <li>• Jackson Transit Authority</li> <li>• Johnson City Transit System</li> <li>• Kingsport Area Transit System</li> <li>• Lakeway Area Transit</li> <li>• Murfreesboro Transit</li> </ul>
Agencies in Large Urbanized Areas (Population of entire UZA over 200,000)	<ul style="list-style-type: none"> <li>• Chattanooga Area Regional Transit System</li> <li>• Franklin Transit System</li> <li>• Knoxville Area Transit</li> <li>• Knox County Community Action Committee</li> <li>• Memphis Area Transit Authority</li> <li>• Nashville Metropolitan Transit Authority</li> <li>• Regional Transportation Authority of Middle Tennessee</li> </ul>
Metropolitan Planning Organizations (MPOs)	<ul style="list-style-type: none"> <li>• Memphis MPO</li> <li>• Jackson MPO</li> <li>• Clarksville MPO</li> <li>• Nashville MPO</li> <li>• Chattanooga TPO</li> <li>• Cleveland MPO</li> <li>• Knoxville TPO</li> <li>• Kingsport MTPO</li> <li>• Johnson City MTPO</li> <li>• Bristol MPO</li> <li>• Lakeway TPO</li> </ul>

In addition to public transit agencies, there are numerous non-profit organizations that are subrecipients of 5310. These agencies provide services to the elderly and/or people with disabilities.

Subrecipients are responsible for operating and administering public transportation services in a manner that complies with all state and federal requirements, including, but not limited to, financial requirements, civil rights requirements, and programmatic requirements. Responsibilities include:

- Providing transportation services
- Complying with state and federal programmatic and grant management requirements
- Submitting invoices to TDOT for grant expenditures with supporting documentation as requested by DMTR
- Reporting to TDOT on operations and financial performance, including but not limited to ridership, funding, vehicle maintenance records, vehicle inspection records, and audit reports
- Conducting procurements per state and federal requirements
- Participating in periodic compliance reviews
- Complying with all contractual obligations in the grant agreement between TDOT and the subrecipient

The Governor has designated the Tennessee Department of Transportation as the state agency responsible for administering Federal Transit Administration programs.

## **3.4 Elected Officials and Community Leaders**

Elected officials play a critical role in the FTA programs administered by TDOT. At the state level, the Governor and members of the General Assembly authorize state funding for transit. At the local level, local financial support is required for essentially all grants, and this local support is provided by elected officials and other local leaders that serve as mayors and council members, MPO board members, and transit agency board members. TDOT reaches out to members of the General Assembly and local elected officials in the development of the Long Range Transportation Plan and in the customer survey that is conducted periodically.

## **3.5 State Resources for Administration of FTA Programs**

### **3.5.1 Staffing**

TDOT's Division of Multimodal Transportation Resources (DMTR) is the entity within TDOT primarily responsible for FTA programs. Salaries of TDOT transit staff are funded by Tennessee fuel tax revenues. TDOT has not used FTA funds to support staff salaries in the past; however, this has been explored and may change going forward.

A staffing plan for the Multimodal Division has been approved by TDOT's Division of Human Resources. This plan calls for a total of fifteen (15) staff members fully devoted to the transit program at full build-out. The transit staff is divided into two units: grant administration and grant monitoring. The Division also has staff assisting in planning and financial operations.

### **3.5.2 State Funding**

The State of Tennessee may fund a portion of the required local match for FTA-funded projects. Tennessee has typically provided half of the non-federal share for 5310, 5311, 5316, 5317, and 5339 grants. However, state funding for transit programs is contingent on the General Assembly's approval of TDOT's budget each year.

## **3.6 Transition from SAFETEA-LU to MAP-21**

Under MAP-21, the 5316 program has become a part of both the 5307 program in urbanized areas and the 5311 program in rural areas. The 5317 program has become a part of 5310 program. Almost all 5316 and 5317 funds have been obligated under the guidance of the 2011 State Management Plan. Any residual funds available after the expiration of contracts can be used for the following activities:

- Extension of contracts underway
- Reallocation through a competitive application process
- Reallocation at the discretion of the Commissioner of TDOT

## **3.7 Certifications and Assurances**

TDOT annually executes Certifications and Assurances via FTA's award management system. The Commissioner of TDOT provided written authorization to TDOT's General Counsel and TDOT's Multimodal Director to PIN the Annual Certifications and Assurances.

Subrecipients of 5310, 5311, 5316, 5317, and 5339 funds are required to provide TDOT with a signed copy of FTA's "Certifications and Assurances" for the specific funding programs for which its organization is applying as part of the application process. The "Certifications and Assurances" are based on federal and state requirements, and may not be altered in any way. In addition and where noted, the "Certifications and Assurances" must be signed and dated by the local attorney and the agency's authorized official.

## **3.8 Planning and Coordination**

### **3.8.1 Statewide Transportation Improvement Program (STIP)**

TDOT's Division of Program Operations develops the Statewide Transportation Improvement Program (STIP). The STIP is the state's multimodal transportation investment and capital improvement program. It is the outcome of the state's planning process, and it serves as a budgeting and scheduling tool. It incorporates the Transportation Improvement Programs (TIPs) from the eleven Metropolitan Planning Organizations. The STIP is updated every four years in accordance with federal requirements, but can be amended at any time in accordance with TDOT/FHWA/FTA Statewide Transportation Improvement Program protocols and procedures.



Through the Statewide Transportation Improvement Program, TDOT allocates resources to those projects assigned the highest priority through these planning and programming processes. Transit-related projects in the Statewide Transportation Improvement Program reflect current and projected projects based on actual and estimated funds from the FTA. The STIP includes all FTA funds for which TDOT is a Direct Recipient, including:

- State Planning and Research (5304)
- Capital Investment Program (5309)
- Elderly Individuals and Individuals with Disabilities Program (5310)
- Other Than Urbanized Area Formula Program (5311)
- Rural Transit Assistance Program, (49USC 5311(B)(3))
- Job Access and Reverse Commute Program (5316)
- New Freedom Program (5317)
- Paul S. Sarbanes Transit in Parks Grants (5320)
- State Safety Oversight Program (5329) (to be amended into the STIP)
- Bus and Bus Facilities (5339)

### **3.8.2 Urban Transportation Improvement Programs (TIPs)**

The Transportation Improvement Program is a planning document that describes how federal transportation funds will be used in Metropolitan Planning Organization (MPO) areas. The Transportation Improvement Program covers a period of four years and lists, in detail, all transportation projects that will receive federal transportation funds within that timeframe. TIPs are incorporated into the STIP by reference.

FTA Circular 9040.1G, “Nonurbanized Area Formula Program Guidance and Grant Application Instructions” addresses the role of MPOs in planning for 5311 projects. “*Metropolitan planning organizations (MPOs) are responsible for transportation planning and programs in metropolitan areas. When the State proposes to fund a Section 5311 project within an MPO’s current planning/study area boundary, which may include areas that are currently nonurbanized but are expected to become urbanized within 20 years, then the State must work with the MPO to ensure that the MPO includes the project in the Metropolitan Transportation Plan and selects the Section 5311 project for inclusion in the MPO’s Transportation Improvement Program (TIP). While the State is ultimately responsible for distribution of nonurbanized formula funds within the State, MPOs - in cooperation with the State - must select Section 5311 projects within the metropolitan area planning boundaries of a Transportation Management Area (all urbanized areas over 200,000 and all other urbanized areas).*”

### **3.8.3 Coordination in the Provision of Human Services Transportation**

TDOT encourages the efficient use of all federal funds through the coordination of programs and services. Human Services Transportation Coordination aims to improve transportation services for persons with disabilities, older adults, and individuals with lower incomes by ensuring that communities coordinate transportation resources in order to enhance transportation access, minimize duplication of services, and realize operational efficiencies. Additionally, when public transportation providers deliver services funded by other state and federal agencies, U.S. DOT allows transit agencies to use the revenue generated from those activities as local matching funds for future federal public transportation grants.

#### **3.8.3.1 Statewide Coordination Efforts**

At the request of the Tennessee General Assembly, in December, 2008, TDOT published the results of a study entitled “Inventory of Human Service Transportation Coordination in Tennessee and Future Opportunities for Leveraging Federal Funds.” Subsequently, the 2011 General Assembly established the Transportation Coordination Committee to study the improvement of the methods of delivery and coordination of transportation services by the Tennessee Department of Transportation, as well as other state departments and agencies. The legislation prescribed membership that included State Representatives, State Senators, and representatives of the following state departments: Transportation (TDOT), Human Services (DHS), Children’s Services (DCS), Finance & Administration (F&A), Veterans’ Affairs (VA), TennCare, Aging & Disability, as well as a representative from the Tennessee Public Transportation Association (TPTA). This Committee makes recommendations about the effectiveness of existing services, improvements in the effective use of existing funding, reduction of barriers to the effective funding of transportation services, identification of new sources of transportation funding, and improvement of universal mobility for Tennessee citizens and visitors. The Committee met several times throughout 2012 to discuss the transportation needs of state agencies and opportunities for coordination. Although a plan did not emerge from the committee, it provided a forum for elected officials to learn and converse about the needs of public transportation in the state. TDOT will continue to monitor and participate in the activities of the committee.

In addition to the coordination efforts by the Transportation Coordination Committee, TDOT launched in the Spring 2014 a statewide effort in reviewing existing coordinated human service transportation plans to identify redundancies and gaps in transportation service, to identify opportunities for more efficient and effective statewide transportation coordination, and to get direct involvement from local decision makers, transportation providers, users of the service, and advocates. These activities were in an effort to better plan and coordinate transportation service throughout the state which has resulted in less fragmented and more cohesive transportation coordination plans in the state.

Other opportunities for statewide coordination efforts include the development of the Statewide Transportation Improvement Program (STIP) which identifies and incorporates all transit projects in the state as well as TDOT’s Long Range Transportation Plan which sets policy goals and objectives for multimodal activities and public transit accessibility.

### **3.8.3.2 Local Coordination Plans**

SAFETEA-LU and MAP-21 require locally developed, coordinated public transit- human services transportation plans for certain Federal Transit Administration (FTA) programs for underserved populations:

- SAFETEA-LU Elderly Individuals and Individuals with Disabilities (5310)
- SAFETEA-LU Job Access and Reverse Commute (JARC – 5316)
- SAFETEA-LU New Freedom (5317)
- MAP-21 Enhanced Mobility of Seniors and Individuals with Disabilities Program (5310)

In Spring 2014, TDOT launched a statewide review of existing coordinated human services transportation plans. Phase I of this effort evaluated existing coordination plans and identified any needed updates. Phase II of the effort updated and expanded plans as needed. A critical component of the effort was to encourage the direct involvement of local decision-makers, providers, service users, and advocates in the development of human services transportation coordination policies, strategies, and identification of projects affecting their communities. The involvement of stakeholders in the planning process facilitates direct involvement in the long-term coordination of transportation services in their region.

At a minimum, a locally developed coordinated human services transportation plan will be developed for each of the nine regions in which regional rural public transportation is provided. These plans will be inclusive of large or small urban areas within those regions. In addition to the coordination plans for each of the nine rural transit regions, urbanized areas may also have more locally-focused coordinated human services transportation plans. In some cases planning areas may overlap. The agency with the lead responsibility for coordinated planning will vary based on local circumstances, and may be an MPO, a regional rural transit agency, or an urban transit agency. Coordinated human services transportation plans are required to be updated at least every four years.

Projects selected for funding under 5310, 5316, and 5317 must be derived from a local coordination plan. Requiring that projects are “derived from” or “included in” the local coordination plan does not mean that projects have to be explicitly identified in the plan, but rather that projects address needs identified in the local plan and harmonize with the plans for service envisioned by the local coordination plan.

## **3.9 Technical Assistance to Subrecipients**

### **3.9.1 Assistance from TDOT Staff**

TDOT provides technical assistance to subrecipients on an ongoing basis through several avenues. TDOT staff is available to assist transit agencies with issues via phone, email, or face to face meetings. TDOT staff participates in Tennessee Public Transportation Association (TPTA) monthly meetings and the TPTA annual conference.

### **3.9.2 Assistance from Consultants**

When technical assistance needed is beyond the capacity or expertise of TDOT staff, TDOT uses consultants for specialized assistance. An agency requesting technical assistance typically writes the Director asking for assistance. The request is reviewed and discussed with the consultant. If funds are available and the requested assistance is warranted, TDOT issues a task order for the needed technical assistance using an on-call contract established for this purpose. TDOT is able to specify the type of funds that will support each task order. The program manager in charge of the on-call contract moves the request forward and determines the most appropriate source of funds for the task order. Examples of such assistance include, but are not limited to:

- Development of technical specifications for procurements
- Development of requests for proposals
- Assistance in preparing Title VI analyses
- Assistance in developing cost allocation plans

The current on-call contract for consulting services began on April 15, 2011, and terminates on April 14, 2016. TDOT will procure on-call consulting contract(s) to take effect April 15, 2016.

### **3.9.3 Rural Transportation Assistance Program**

The Rural Transportation Assistance Program (RTAP) funds received by Tennessee are primarily granted to the Tennessee Transit Training Center (TTTC) at Middle Tennessee State University (MTSU). Through a separate contract, TDOT also provides state-only funds (UTAP) to TTTC for assistance to urban transit agencies in Tennessee, including small urban transit agencies that are subrecipients of the 5310, 5316, and 5317 programs. A limited amount of RTAP funds are granted to each 5311 subrecipient to supplement their training budgets.

Presently, TDOT intends to conduct a competitive selection process for RTAP services, either through procurement or a competitive process. The selected RTAP service provider will begin mid-year 2015.

## **3.10 Rural Intercity Bus Service**

At least every five (5) years, TDOT conducts an assessment to determine if the intercity bus needs are being met adequately. This Intercity Bus Service Assessment seeks to accomplish the following tasks:

- Consult with Intercity bus providers regarding intercity services
- Explore the demand for intercity bus service. Assess public awareness and usefulness of existing services. Recommend procedures for increasing awareness of existing services
- Identify service needs, gaps, or duplication of services and any opportunities for cooperation between agencies or improvements in administering this program. Include projected needs and any anticipated future gaps in service. Identify potential routes and the feasibility of developing those routes
- Evaluate the need for additional intercity service relative to other transportation needs in Tennessee

If the Governor certifies that “the intercity bus service needs of the State are being met adequately,” then all 5311 funds will be available for general 5311 service. In this case, 5311 subrecipients are encouraged to make the general public aware that they can provide trips to intercity bus terminals. If the Governor determines that intercity bus needs are not adequately met, then fifteen percent (15%) of the allocation would be dedicated to intercity bus projects and the balance of the 5311 funds are distributed to Tennessee’s 5311 subrecipients.

### **3.11 Transfer of Funds between Programs**

TDOT does not typically transfer funds in or out of the 5310, 5311, 5316, 5317, or 5339 programs. All FTA funds appropriated to a specific program are allocated and obligated in that same program.

TDOT may transfer Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) funds, and certain other flexible funds, from the Federal Highway Administration (FHWA) to FTA to use for eligible transit purposes identified in each program.

In the event that TDOT decides to transfer funds in the future, TDOT will consult with current subrecipients in both the receiving and donating programs as well as with the area MPO and RPO, appropriate local officials, and area transit providers before the decision to transfer program funds is implemented. Any transfer of funds will follow the specific regulations and procedures identified in Circular 9040.1F. In addition, TDOT will notify the FTA regional administrator of its intent to have funds transferred.

### **3.12 Third Party Service Providers**

Subrecipients may purchase transportation service from private sector transportation providers as well as public providers. Provision of service must be procured in accordance with the procurement policies identified in this State Management Plan. Additional information about required provisions in service contracts is provided in the procurement section of this plan.

### 3.13 Program Measures

TDOT maintains performance measures for each transit program to track productivity and cost effectiveness. TDOT requires subrecipients of program funds to submit information regarding each program's performance measures in required monthly reports and/or in conjunction with the subrecipient's invoice reimbursement request or through the annual process of compiling data for the National Transit Database. Subrecipients are also required to submit annually to TDOT a completed program measure form for Section 5316 and 5317. The submitted information is analyzed to also review program performance for Section 5310, 5311, and 5339 programs under MAP-21. This information is collected and recorded by TDOT staff and reported accordingly to the FTA.

Program	Measures
5310	<ul style="list-style-type: none"><li>• One-way trips provided</li><li>• Number of eligible individuals</li></ul>
5311	<ul style="list-style-type: none"><li>• General public trips provided</li><li>• Sponsored trips provided</li><li>• Revenue miles</li><li>• Operating cost per trip</li><li>• Average annual revenue vehicle mileage</li></ul>
5316	<ul style="list-style-type: none"><li>• Actual or estimated number of jobs accessed from JARC projects implemented</li><li>• Actual or estimated number of trips provided from JARC projects implemented</li></ul>
5317	<ul style="list-style-type: none"><li>• Actual or estimated number of trips resulting from service enhancements</li><li>• Actual or estimated number of trips resulting from capital improvements</li></ul>
5339	<ul style="list-style-type: none"><li>• Average annual revenue vehicle mileage</li><li>• Useful life of agency's fleet</li></ul>

## Chapter 4. Eligibility

### 4.1 Eligible Subrecipients

5310	<ul style="list-style-type: none"> <li>Subrecipients of 5310 funds for which TDOT is the Direct Recipient must primarily serve populations in either rural or small urbanized areas (population between 50,000 and 200,000). Urbanized areas with a population over 200,000 each receive an apportionment of 5310 funds from FTA. The four large urbanized areas in Tennessee have each selected a local Direct Recipient for those funds. TDOT recognizes that the service areas of potential subrecipients often include both urban and rural areas, and will work with potential subrecipients and the designated recipients in large urbanized areas to identify appropriate funding</li> <li><u>Private nonprofit organizations.</u> A nonprofit organization is a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 USC §501(c) which is exempt from taxation under 26 USC §501(a) or one which has been determined under state law to be nonprofit and for which the designated state agency has received documentation certifying the status of the nonprofit organization. Nonprofit applicants must be recognized under Section 501(c)(3) of the Internal Revenue Code and submit a copy of the certificate from the Internal Revenue Service</li> <li><u>Public bodies that certify to the Governor</u> that no nonprofit corporations or associations are readily available in an area to provide the service. While eligible, TDOT has not funded any agencies under this provision</li> <li><u>Public bodies designated by the state to coordinate services.</u> Local public bodies are eligible to apply for 5310 funds if they are designated by the state as coordinators of services for elderly persons and persons with disabilities in a particular area. On October 31, 2011, Tennessee's Governor certified that public transportation agencies are authorized to coordinate human services transportation in their areas</li> </ul>
5311	<ul style="list-style-type: none"> <li>TDOT provides 5311 funding to nine (9) regional public transportation agencies and two (2) local public operators. The regional providers include eight (8) regional human resource agencies (HRAs) and one (1) regional development district</li> <li>TDOT will not accept 5311 applications from agencies that are not current subrecipients unless the legislative body of a local government submits a formal request to the Commissioner. In the event that such a request is received, Multimodal staff will evaluate the proposal and provide the Commissioner with a recommended course of action. The final decision about whether to add a new subrecipient is at the discretion of the Commissioner</li> <li>Private for-profit operators of transit services may participate in the program as third party contractors for grantees or eligible subrecipients, rather than as subrecipients</li> <li>If TDOT participates in the 5311(f) program for rural intercity bus service, then private for-profit operators of transit services may participate in the program</li> </ul>
5316 and 5317	<p>Recipients of 5316 and 5317 funding through TDOT must serve rural or small urban areas (population 50,000–200,000). Eligible applicants for 5316 and/or 5317 funding are:</p> <ul style="list-style-type: none"> <li>Private non-profit organizations</li> <li>State or local governmental authorities</li> </ul>
5339	<ul style="list-style-type: none"> <li>Public transportation agencies in rural and small urban areas (UZAs between 50,000 and 200,000 in population) providing general public transportation that currently receive Section 5307 or 5311 program funds are eligible. It is the intention of TDOT to award statewide funds to public transportation agencies primarily serving rural areas; however, TDOT retains discretion to open eligibility to public transportation agencies serving urbanized areas as well.</li> <li>TDOT is the Designated Recipient for 5339 funds in UZAs between 50,000 and 200,000 in population (small UZA). Direct Recipients in small UZAs are eligible for a federal allocation and state matching funds. Direct Recipients may not pass through any funds to subrecipients.</li> <li>TDOT is both the Designated Recipient and Direct Recipient of 5339 funds for the FTA statewide allocation.</li> </ul>

## 4.2 Eligible Services

The type of services that can be supported by FTA funding (whether operating or capital support) varies by program. TDOT encourages coordination of resources to maximize the efficiency of providing public transportation and human services transportation funded by other government agencies. Agencies are encouraged to develop a programmatic cost allocation plan if receiving funds from multiple programs to ensure costs are charged to the appropriate funding source. The table below identifies the basic type of service provided by each program. Each program's requirements are discussed further in the sections below.

Program	Service Objectives
5310	<ul style="list-style-type: none"><li>• Services that increase mobility for the elderly and people with disabilities</li><li>• With MAP-21, 5317 type services have been combined with this program</li></ul>
5311	<ul style="list-style-type: none"><li>• Public transportation for the general public in rural areas, including providing access from rural areas into urbanized areas</li><li>• With MAP-21, 5316 type services have been combined with this program</li></ul>
5316	<ul style="list-style-type: none"><li>• Services that increase access to jobs for low income persons</li><li>• With MAP-21, 5316 type services have been combined with 5311</li></ul>
5317	<ul style="list-style-type: none"><li>• New service that goes above and beyond the requirements of the Americans with Disabilities Act</li><li>• With MAP-21, 5317 type services have been combined with 5310</li></ul>
5339	<ul style="list-style-type: none"><li>• To support the continuation of public transportation services</li></ul>

### 4.2.1 Eligible 5310 Service

Transportation service supported by 5310 must expand transportation opportunities for the elderly and/or people with disabilities. This expanded service may be part of general public transportation or be part of programs devoted to these populations.



### **4.2.2 Eligible 5311 Service**

General requirements for 5311 service include the following:

- Public transportation services that are provided with funding support from the program must be open to the general public on a regular and continuing basis
- Services must be advertised to let the public know the service is available
- An eligible transportation service may include the transportation of residents of the nonurbanized area to or from the nearest urbanized area or areas (see discussion of service area to follow)
- The service is designed for the general public but may be part of a coordinated project designed to maximize the usage of services by transportation disadvantaged persons
- With MAP-21, Job Access Reverse Commute (5316) type services were added, see Eligible 5316 Service

### **4.2.3 Eligible 5316 Service**

For demand-response service providers, 5316 service may take the form of a targeted transportation program in which individuals participate based on qualifications and receive clearly defined transportation benefits for a period of time. In contrast, fixed-route service providers, 5316 projects may take the form of a general expansion of transit service to enhance access to employment without enrolling individuals in a job access program. When an agency operates a targeted program, the following requirements apply:

- Participants must provide income documentation certifying that income does not exceed the Health and Human Services Poverty Guidelines, or provide a referral from a county office of the Tennessee Department of Human Services.
- Participants must be employed (part-time or full-time) or participating in a work related activity such as job training.
- Participants must meet with a Mobility Manager or Case Manager to recertify as to income and employment status. The Mobility Manager will assist the participants in identifying transportation alternatives and in establishing long-term transportation arrangements to employment.
- Participant may participate in the Job Access Program for a specified period of time determined by the subrecipient.

### **4.2.4 Eligible 5317 Service**

5317-funded service enhancements must support new transportation services beyond the ADA. As defined by the FTA Circular 9045.1, “new” service includes services meeting the following criteria:

- Any service or activity that was not operational on August 10, 2005
- Did not have an identified funding source as of August 10, 2005

An expansion of general public transportation is an eligible 5317 service, provided it meets the definition of “new.” Other examples of 5317 service that exceeds the requirements of ADA include but are not limited to, providing mobility managers to assist riders in accessing transit service, providing paratransit service beyond the required distance from a fixed route, providing door-to-door demand response or paratransit service or extending paratransit service into the evening beyond the time required by ADA and any other projects that may be identified in the FTA Circular 9045.1.

#### 4.2.5 Eligible 5339 Service

Section 5339 is a capital only program. As such, service may take the form of projects to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities.

### 4.3 Eligible Budget Items

	5310 (Traditional)	5310 (Expanded, formerly New Freedom)	5311	5316	5317	5339
State Program Administration	X	X	X	X	X	
Project Administration		X	X	X	X	
Capital	X	X	X	X	X	X
Planning		X	X	X	X	
Operations		X	X	X	X	

#### 4.3.1 State Program Administration

The amount that the state may use for state administration, planning, and technical assistance activities is limited to fifteen percent (15%) of the annual apportionment under SAFETEA-LU and ten percent (10%) under MAP-21. These are one hundred percent (100%) federal funds and may be used to support TDOT personnel, administrative costs, and costs associated with technical assistance with subrecipients monitoring. State program administration funds may also be used to provide technical assistance to subrecipients. TDOT has used State Program Administration funds for staff training, technical assistance, and participation in TPTA conferences in past years. TDOT may choose to use FTA funds to support staff salaries in the future. Under the 5310 and 5311 programs, TDOT may use state administrative funds to support compliance monitoring, development of coordinated plans, technical assistance, or other activities that support the programs.

### **4.3.2 Subrecipients' Project Administration Expenses**

State program administration funds are not available to subrecipients. Subrecipients are allowed to use their programmatic funding allocation for program administration expenses. Subrecipients may treat administrative expenses as “non-operating” expenses, separate from either capital or regular operating expenses. Eligible project administrative costs may include, but are not limited to, general administrative expenses (e.g., salaries of the project director, secretary, and bookkeeper); marketing expenses, insurance premiums or payments to a self-insurance reserve, office supplies, facilities and equipment rental, the costs of administering drug and alcohol testing, and agency indirect costs that conform to an approved indirect cost allocation plan.

### **4.3.3 Planning**

Planning is a new eligible activity under MAP-21. Eligible expenses are comprehensive planning for provision of transit services, engineering, design, and evaluation of public transportation projects, and planning studies involving modes other than transit when performed as part of the rural transportation planning process. Eligible activities include, but are not limited to, the development of long-range rural transportation plans, joint development planning, training and educational activities, and human resource program activities. The planning activities undertaken with 5311 funds are specifically for rural needs.

### **4.3.4 Capital**

Eligible capital expenses include the acquisition, construction, and improvement of public transit facilities, vehicles and equipment needed for a safe, efficient, and coordinated public transportation system, as well as certain other expenses classified as capital in Section 5302(a)(1).

Tennessee's Department of General Services maintains a contract for the purchase of several types of capital equipment including ADA conversion vans and buses, radio equipment, computers, etc. The contracts are available for subrecipients to utilize at their discretion.

### **4.3.5 Operations**

Operating expenses are those costs directly related to system operations, including, at a minimum, fuel, oil, drivers' salaries and fringe benefits, dispatcher salaries and fringe benefits, and licenses. TDOT permits subrecipients to treat preventive maintenance as either an operating or capital expense for funding purposes. Similarly, for the 5311 program only, FTA gives states the option of classifying certain other expenses as either operating or non-operating expenses (i.e., project administration). Once these expenses are eligible for funding under 5311 at the capital match, the provider may classify these funds as operating expenses in its internal accounting system, under generally accepted accounting principles.

SAFETEA-LU 5310 funds cannot be used for operating expenses; however, TDOT will make a limited amount of MAP-21 5310 funds available to public transportation agencies for New Freedom-type operating projects. The amount of funds used for traditional New Freedom projects is based on projects submitted and Director's discretion.

Since contract service is an integral part of coordination between transit agencies and human service agencies, revenue vehicles used for general public transportation can also be used for contract services.

## **4.4 Eligible Service Area**

### **4.4.1 Eligible Service Area for 5310 Projects**

The service area for 5310 projects is specified in the application submitted by the subrecipient.

### **4.4.2 Eligible Service Area for 5311 Projects**

Funds available from the 5311 program are dedicated to public transportation projects that serve nonurbanized areas of the state based on the urbanized/rural designations in the 2010 Census. Since the goal of 5311 is to enhance the overall mobility of people living in non-urbanized areas, 5311 projects may include transportation to and from urbanized areas. 5311 subrecipients may provide public transportation service into and out of urbanized areas provided that each trip either originates from or ends in a rural area in the state. However, subrecipients are prohibited from providing public trips that originate and terminate within an urbanized area. Public transportation providers generally should not provide public transportation services outside of their designed geographical service areas. Whenever possible, subrecipients will coordinate service with one another when serving destinations in proximity to one another.

#### **4.4.2.1 5311 Appalachian Funds**

5311 Appalachian funds are intended for providing public transportation service to the counties identified as part of the Appalachian region.

#### **4.4.2.2 5311 Services Crossing State Lines**

The service area may include destinations across the state line. Operators of interstate service are required to comply with the Federal Motor Carrier Safety Administration (FMCSA) regulations. FMCSA requirements will apply when a subrecipient operates commercial motor vehicles across state lines for compensation (directly or indirectly). These requirements include obtaining a DOT number and meeting minimum financial responsibility requirements,

### **4.4.3 Eligible Service Area for 5316 Projects**

5316 projects are selected through a competitive application process in which the service area is identified as part of the project proposal. Rural 5316 funds are intended to serve rural areas, and small urban 5316 funds are intended to serve needs within the small urban areas.

#### **4.4.4 Eligible Service Area for 5317 Projects**

5317 projects are selected through a competitive application process in which the service area is identified as part of the project proposal. Rural 5317 funds are intended to serve rural areas and small urban 5317 funds are intended to serve needs within the small urban areas.

#### **4.4.5 Eligible Service Area for 5339 Projects**

Service areas for directly allocated 5339 funds to small urban agencies are based on the agencies' transit operations. 5339 statewide funds are selected through a competitive application process in which the service area is identified as part of the project proposal.

## Chapter 5. Application for Funding

The announcement of apportionments in the Federal Register begins the grant cycle for TDOT and our subrecipients. Application requirements include some provisions which apply to all grant programs as well as program-specific grant application procedures.

### 5.1 Overarching Application Requirements for Subrecipients

Certifications and Assurances	Required
Identification of Source of Local Matching Funds	Required
Single Audit Data Collection Form (SF-SAC)	Required
Title VI Plan	Required
Documentation of Corrective Actions from All Audits & Reviews	Required
Data for Federal Funding Accounting and Transparency Act of 2006 (FFATA)	Required
Identification of Labor Organizations	Required
Designation of Authorized Signatory for Invoices	Required
Lawsuits and Formal Complaints in the Prior Year	Required
Summary of civil rights assessments completed for the prior three years (e.g., Title VI, EEO, DBE reviews performed, if any)	Required
Single Audit	Required for 5311, 5316, 5317, and 5339 funds.
Correcting Actions for Single Audit Findings Related to Transit	Required for 5311, 5316, 5317, and 5339 funds.
Certifications Regarding Contract Service and Revenues	Required for 5311, 5316, and 5317 funds.
SAMS Search Report	Required for 5310, 5311, 5316, 5317, and 5339 funds.
Inventory of Vehicles	Required if a subrecipient has or plans to procure FTA-funded vehicles
Maintenance Plan for Vehicles	Required if a subrecipient has or plans to procure FTA-funded vehicles
Inventory of FTA Funded Equipment	Required if a subrecipient has or plans to procure FTA-funded equipment
Maintenance Plan for Equipment	Required if a subrecipient has or plans to procure FTA-funded equipment
Inventory of FTA Funded Real Property	Required if subrecipient has or plans to procure FTA-funded real property
Maintenance Plan for FTA Funded Real Property	Required if subrecipient has or plans to procure FTA-funded real property
Programmatic Cost Allocation Plan	Required if subrecipient operates multiple transit programs (5311, 5316, 5317, contract services, etc.)
Indirect Cost Allocation Plan, Letter of Approval from Cognizant Agency, and Current Rate Calculation	Required if subrecipient seeks reimbursement for indirect costs
Certification of Equivalent Service	Required on an annual basis
Trip Denial Log	Required if subrecipient plans to operate or procure non-accessible vehicles with FTA funds
OMB Standard Form LLL	Required if non-federal funds are used for lobbying
Equal Employment Opportunity	Required if capital/operating assistance is over \$1M or planning assistance is over \$25K AND subrecipient employs 50+ transit employees
Limited English Proficiency Plan	Required if the LEP threshold is reached

*Please note that the threshold for single audit standards will increase from \$500,000 to \$750,000 on December 26, 2014.*

The timetable for soliciting applications and submitting a Program of Projects to FTA varies by program. The 5310 program will solicit the first applications for funding under MAP-21 in early 2015. The 5339 program will solicit the first applications for the statewide apportionment in 2016. For 5311, TDOT aims to solicit applications from subrecipients within thirty (30) days of the publication of the state apportionment in the Federal Register. TDOT does not intend to solicit applications for 5316 and 5317 again unless it is necessary in order to expend residual funds. The timetable is further complicated when Congress makes funds available more frequently than once per year through short-term continuing resolutions. When continuing resolutions increase the funding within a single fiscal year, TDOT does not repeat the entire application process for subrecipients, but rather amends in the funds to the FTA grants and subrecipients' contracts.

## 5.2 Program-Specific Application Requirements for Subrecipients

	5310	5311	5316	5317	5339
Drug and Alcohol Oversight Program	Not Applicable per FTA; however, FMCSA rules may apply	Required	Not Applicable	Not Applicable	Not Applicable
Locally Developed Human Services Coordinated Transportation Plan	Required	Not Applicable	Required	Required	Not Applicable
Documentation of Public Participation	Not Applicable	Required	Required	Required	Required
Documentation of Non-Profit Status	Required	Not Applicable	Not Applicable	Not Applicable	Not Applicable

Please note that the table above describes TDOT's requirements for applications based on state and FTA regulations. While TDOT does not require a 5310 applicant to submit a drug and alcohol program, FMCSA may require subrecipients that cross state lines with vehicles carrying more than fifteen (15) passengers to administer such a program.

## **5.2.1 Application for Ongoing 5311 Funding**

### **5.2.1.1 Allocation of Funds to Subrecipients**

Allocation templates for each transportation program are used to determine the amounts for eligible recipients. The previous year's calculation is saved as a template for the following year and updated each year with the program's current year information. Templates are saved on the network folders and are archived by IT network policy.

Each year TDOT uses a formula to determine the amount of funding that is available to each subrecipient based upon the total amount of 5311 funding provided to Tennessee. Historically, this formula has included:

- Rural population
- Number of counties in the service area
- Number of vehicles in the agency's fleet

### **5.2.1.2 5311 Grant Application Process**

5311 subrecipients must apply to TDOT annually for funding. TDOT distributes the application packet to eligible subrecipients in the spring of each year. Each subrecipient is provided with the total amount of funding that is available to them as well as an Excel template in which they are to enter their budget by Activity Line Item (ALI) code.

In addition to the overarching requirements discussed above, 5311 applicants submit extensive information about the following:

- Organization
- Program Description
- Service Provisions
- Service Coordination
- Financial and Managerial Capability
- Safety and Training Programs
- Labor/Employment

In the unlikely event that a subrecipient has been allocated funds but they are subsequently deemed ineligible based on their application, those funds will be reallocated to the remaining eligible applicants based on the formula.



## 5.2.2 Application for Competitive Grant Programs

### 5.2.2.1 5310 Application Process

TDOT periodically issues a call for projects to eligible applicants of 5310 funds. The application procedure is a two-phased process. The purpose of the two-phased application process is to eliminate a significant portion of the time and expense involved in the application process for unsuccessful applicants. In Phase I, each applicant provides information that is used to determine whether the agency is eligible for 5310 funding as well as information that is used to rate the proposal against the proposals of other agencies. In Phase II, applicants will be tentatively recommended for funding and they are asked to complete and execute certifications. Applicants for 5310 funds submit information about the following:

- Basis for eligibility for funding
- Non-profit status (if applicable)
- Designation to coordinate transportation services (if applicable)
- Target population served by the agency
- Service area
- Identification of need for transportation
- Replacement or expansion vehicles
- Coordination efforts
- Schedule of operations
- Accessibility, safety and training
- Vehicle request
- Vehicle inventory including details for each vehicle type, age, capacity, and mileage
- Financial management and grant management capability
- Written Maintenance Plan

Incomplete applications are not considered.

Tennessee limits the use of SAFETEA-LU 5310 funds to the purchase of rolling stock. 5310 funds are used to purchase vehicles to support the provision of transportation services to meet the special needs of elderly persons and individuals with disabilities.

Subrecipients in the 5310 program select the vehicles they would like to receive from the state contract, and then these vehicles are ordered by TDOT and delivered. Typically, vendors deliver the vehicles to a TDOT Regional Office, where subrecipients meet a DMTR staff member to receive the vehicles. In this way TDOT can ensure that FTA procurement requirements are met. In addition, subrecipients that have identified 5310 awarded vehicles as a “replacement vehicle” have ninety (90) days from the time the vehicle is placed into service to initiate the disposal process for the vehicle identified in the application to be replaced.

Under MAP-21, 5310 funds may be used for either operating or capital purchases (as described above). At least fifty-five percent (55%) of available 5310 funds must be used for “traditional” 5310 projects (e.g., qualifying projects under 5310 under SAFETEA-LU). “Traditional” 5310 capital projects will be limited to the purchase of ADA conversion vans and/or buses offered on the statewide vehicle contract. TDOT may elect to use a limited amount of 5310 funds for traditional New Freedom activities that provide for services beyond what is required from the Americans with Disabilities Act (ADA) of 1990. The amount of funds used for “traditional” New Freedom projects is based on projects submitted and the Director’s discretion.

#### **5.2.2.2 5316 Application Process**

TDOT has obligated and allocated all SAFETEA-LU 5316 funds based on the application guidelines outlined in the State Management Plan approved in November 2011.

TDOT allocated SAFETEA-LU 5316 funds through a competitive process. While there was one (1) call for projects, TDOT kept small urban and rural 5316 segregated in allocating those funds. The last call for projects was in 2011 and took place concurrently with a call for 5317 (New Freedom) projects. The call for projects was advertised statewide. The 2010 call for projects requested proposals for a three (3) year project period. The competitive process awarded not only the Federal Fiscal Year (FFY) 2011 5316 funds, but also the funds for FFY12. The original intent was for the 2011 application process to include FFY13 funds as well; however, the 5316 program was eliminated as a stand-alone program in FFY13. If agencies that were awarded 5316 funds wish to continue those programs under MAP-21 they will need to use 5307 or 5311 funds for that purpose.

In addition to the overarching requirements described above, applicants for 5316 provided the following:

- A description of the needs that the proposed project will address
- An implementation plan for the proposed project
- Budget for the proposed project
- Evidence that the proposed project is derived from a Locally Developed Human Services Transportation Coordination Plan
- Valid certificate of liability insurance
- Minimum three (3) letters of support/recommendation for the proposed project
- Identification of staff assigned to the project, hours, and estimated salary
- Copy of Business Tax Certificates and/or License
- Documentation of the applicant’s form of business (i.e., government agency, non-profit corporation, partnership, corporation)
- Articles of Incorporation reflecting active status
- Other Corporate Names (DBA’s)
- 501(c)(3) Status – Copy of letter from Internal Revenue Service (if applicable)

#### **5.2.2.3 5317 Application Process**

TDOT has obligated and allocated all SAFETEA-LU 5317 funds based on the application guidelines outlined in the State Management Plan approved in November 2011.

TDOT allocated SAFETEA-LU 5317 funds through a competitive process. While there was one (1) call for projects for all 5317 projects, TDOT kept small urban and rural 5317 segregated in allocating those funds. The last call for projects was in 2010 and took place concurrently with a call for 5316 (JARC) projects. The call for projects was advertised statewide.

The 2010 call for projects requested proposals for a three year project period. The competitive process awarded not only the Federal Fiscal Year 2010 5317 funds, but also the funds for FFY11 and FFY12. The application instructions indicated that two one-year project extensions were available; however, the 5317 program no longer exists as a stand-alone program under MAP-21. If agencies that were awarded 5317 funds wish to continue those programs under MAP-21, they will need to apply for funding under the 5310 program described above.

In addition to the overarching requirements described above, applicants for 5317 must provide the following:

- Description of the needs that the proposed project will address
- Implementation plan for the proposed project
- Budget for the proposed project
- Evidence that the proposed project is derived from a Locally Developed Human Services Transportation Coordination Plan
- Valid certificate of liability insurance
- Minimum three (3) letters of support/recommendation for the proposed project
- Identification of staff assigned to the project, hours, and estimated salary
- Copy of Business Tax Certificates and/or License
- Documentation of the applicant's form of business (i.e., government agency, non-profit corporation, partnership, corporation)
- Articles of Incorporation reflecting active status
- Other Corporate Names (DBAs)
- Documentation of 501(c)(3) Status – Copy of letter from Internal Revenue Service (if applicable)

#### **5.2.2.4 5339 Application Process**

TDOT Multimodal allocates the small UZA 5339 funds by formula based on population, general public ridership, general public revenue miles, and local participation in funding transit. Small urban agencies will apply for their allocation of funds directly to the FTA. Direct Recipients may not pass through any funds to subrecipients.

Applicants for the statewide 5339 funds will submit information about the following:

- Basis for eligibility for funding
- Identification of need for continuance of transportation services
- Vehicle inventory including details for each vehicle type, age, capacity, and mileage
- Vehicle replacement need
- Service data
- Financial management capability

Incomplete applications are not considered.

The process for the statewide allocation is competitive and largely driven by data in the statewide vehicle inventory. Applicants provide fleet information, and numerically rank which vehicles need replacement. The identified vehicles are then given a score based on useful life. Subrecipients that have identified 5339 awarded vehicles as a “replacement vehicle” shall initiate the disposal process for the vehicle identified in the application as needing replacement within ninety (90) days of the date that the new vehicle begins service. It is the intention of TDOT to award statewide funds to public transportation agencies primarily serving rural areas; however, TDOT retains discretion to open eligibility to public transportation agencies serving urbanized areas as well.

## **5.3 Evaluation of Applications**

TDOT’s Division of Multimodal Transportation Resources reviews each application for funding. Program-specific review procedures are described below.

### **5.3.1 Program-Specific Application Evaluation Procedures**

#### **5.3.1.1 Evaluation of 5310 Applications**

The evaluation process includes two phases to review and recommend applicants for funding. In Phase I, an evaluation panel that includes the Program Manager for 5310, other DMTR staff, and TDOT Civil Rights staff will screen applications for basic eligibility and compliance with FTA requirements. The panel will also address the applicants’ funding need by rating the fleet status and vehicle use of each applicant, number and type of persons served, schedule of operations, coordination efforts, safety and training, past practice and reporting history, and financial management and capacity. In Phase II, RPO and MPO planning staff will review applications for cost effectiveness, coverage within the RPO and MPO areas, as well as service coverage of different populations. The RPO/MPO staff will provide comments to TDOT on which agencies to award funds and which vehicles to fulfill requests in each area of the state. After all applications have been reviewed and rated, TDOT will notify all applicants of their status. Those applicants whom TDOT intends to recommend to FTA for funding will be asked to officially accept the award, terms, and local match requirements. Once Phase II is complete, a Program of Projects which consists of eligible subrecipients will be developed for inclusion in TDOT’s FTA grant application.

#### **5.3.1.2 Evaluation of 5311 Applications**

The review of 5311 applications is focused on confirming the following:

- Required documentation has been submitted
- Operations are compliant with pertinent regulations
- The proposed budget is reasonable

Once compliance has been confirmed, each subrecipient’s proposed budget is incorporated into TDOT’s grant application to FTA.

#### **5.3.1.3 Evaluation of 5316 and 5317 Applications**

A team of four Multimodal Division staff and one on-call consultant rated 5316 and 5317 applications received in 2010 based on the following criteria:

- Project Need(s)/Goals and Objectives (25 Points)
- Implementation Plan (25 Points)
- Project Budget (20 Points)
- Locally Developed Human Services Coordination Plan (20 Points)
- Cost-effectiveness and Performance Indicators (10 Points)

#### **5.3.1.4 Evaluation of 5339 Applications**

Review of each agency's application material and responses, revenue fleet size, age, and other service performance data will be used in selecting project awards. During the selection review process, applicants may be required to provide additional agency and/or project information. The selection process will also take into consideration vehicles awarded recently under other programs and vehicles identified to be replaced. TDOT will evaluate applications and select the projects and the amount of funding.

### **5.4 Development of Annual Program of Projects for FTA Programs**

TDOT receives applications from subrecipients and reviews them, including the budget for projects and all required supporting documentation. The applications from individual subrecipients are then used to develop the statewide Program of Projects included in TDOT's grant application to FTA, submitted electronically to the federal transportation accounting management system. After FTA informs TDOT that the grant application has been approved, the grant is executed by the Multimodal Director, Assistant Director, Transit Manager, or Program Monitor Supervisor (a new job classification included in Multimodal's staffing plan).

## Chapter 6.      **Contracts between TDOT and Subrecipients**

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### **6.1 Contract Development**

Upon execution of a grant agreement between TDOT and FTA, TDOT Multimodal begins the contract development process. All projects included in TDOT's Program of Projects in FTA grants are governed by contractual agreements between TDOT and the subrecipient. These contracts follow the guidelines of the Department of General Services, Central Procurement Office (CPO). Prior to execution, contracts are reviewed by TDOT Division of Finance, TDOT General Counsel's Office, Department of General Services' Central Procurement Office (CPO), Department of Finance and Administration's Division of Budget, and the Comptroller of the Treasury's Office.

TDOT enters into a written agreement (contract) with each subrecipient specifying the terms and conditions of state and federal financial assistance. The contract incorporates the Master Agreement by reference in order to pass through federal requirements to subrecipients. The contract template is updated by CPO. When preparing contracts, Multimodal staff downloads the latest template from the CPO website.

Each project is assigned unique identifiers for use in Tennessee's financial system, Edison. Typically, each subrecipient contract is identified by:

- An FTA Project Number
- A TDOT Project Number
- An Agency Tracking Number (within Edison)
- A Contract Number (assigned after the contract has been approved)
- A Purchase Order Number (assigned after the contract has been approved)

Following the execution of the contract, TDOT submits the information required by the Federal Financial Accountability and Transparency Act (FFATA).

### **6.2 Local Funding Requirements**

In addition to passing through the federal requirements, an important function of the contract is to specify the local share of FTA funded projects. For 5310, 5311, 5316, 5317, and 5339 grants, TDOT typically provides matching funds in the amount of one-half of the non-federal share. Federal and local match requirements are presented in the table below. The maximum allowable percentage of the total federal funds to be spent for each activity is listed first, followed by the required percentages of the total eligible expenses covered by state and local funds.

## Federal, State, and Local Share of Eligible Expenses

Eligible Projects	Federal Percentage	Maximum State Percentage*	Local Percentage
State Program Administration	100%	0%	0%
Project Administration	80%	10%	10%
Operating	50%	25%	25%
Capital	80%	10%	10%
Capital ADA (SAFETEA-LU)	83%	8.5%	8.5%
Capital ADA (MAP-21)	85%	7.5%	7.5%
5310 Capital ADA (MAP-21)	80%	10%	10%
Planning	80%	10%	10%

\*Subject to funding availability.

United States Department of Transportation (U.S. DOT) program funds cannot be used as a source of local match for the 5310, 5311, 5316, 5317, or 5339 programs. Allowable sources for local matching funds include dedicated local tax revenues, private donations, revenue from service contracts, toll revenue credits, and program income generated from advertising and concessions. Program income (such as revenue from advertising or leasing space) may not be used to reduce the local share of the grant from which it was earned, but may be used as local matching funds in future grants. If grantees choose not to use program income for public transportation purposes, then it shall be deducted from total allowable costs to determine the net allowable costs.

### 6.2.1 Use of In-Kind Contributions as Local Match

The value of volunteer services or other in-kind (non-cash) contributions are eligible to be counted toward the local match if several conditions are met:

- The value of any non-cash contribution is documented and supported
- The in-kind contribution represents a cost that would otherwise be eligible under the program
- The value of the in-kind contribution is included in the net project cost in the project budget
- TDOT has provided explicit written permission for the use of the in-kind contribution as local matching funds

### 6.2.2 Contract Service and Revenue

Operating expenses for contract services must be included in total operating expense. Income from contracts to provide human service transportation may be used to reduce the net project cost (treated as revenue). If contract revenue is not deducted from net project cost, then contract revenue earned must be retained for use in public transportation and may be used as local matching funds or for any other public transportation operating or capital expense with or without federal or state assistance. If the contract revenue is used as local match, it can be used for either the grant in which contract revenue was earned or in future grants. If not used for local match, contract revenue can only be deducted from operating expenses in the grant from which it was earned.



TDOT subrecipients are prohibited from spending contract revenue for any program outside of open-door public transportation unless the subrecipient can demonstrate to TDOT's satisfaction that no administrative, operating, maintenance, or capital expense associated with the generation of that contract revenue has been funded with state, federal, or contract revenues subject to these restrictions.

Subrecipients must account for contract revenue earned in their accounting system and the accounting system must be able to identify the amount of contract revenue in reserve and the purpose for which any contract revenue has been expended.

TDOT recommends the development of a programmatic cost allocation plan to properly allocate costs associated with contracted services to the appropriate program for general public transportation.

On an annual basis, TDOT requires the following certifications:

- (1) The subrecipient's chief executive certifies to TDOT that vehicles used for contract service trips are also available for general public transportation.
- (2) The auditor performing the subrecipient's annual audit certifies to TDOT that all revenue generated through contract service is restricted to use in public transportation. Certification by the chief executive is acceptable for the 2014 audit.

## **6.3 Policy on Extending the Contract Term**

In order to promote the efficient use of grant funds, TDOT will not approve requests for contract extensions unless special approval is granted by the Director. Subrecipients requesting an extension must provide a written explanation of the cause for the delay in spending the contract funds within the original contract period and specify a plan for expeditious completion of the project within the requested extension period.

## **6.4 Revisions and Amendments to the Executed Contract**

Due to the complexity of completing grant amendments and budget revisions through FTA, subrecipients are encouraged to develop their initial budgets carefully to minimize the need for changes during the term of the contract. However, during the term of the contract between TDOT and a subrecipient, it may become necessary to modify the project budgets. Subrecipients must request such changes in writing and provide a detailed justification for the requested change.

TDOT will consider requests for budget changes on a case-by-case basis. The subrecipient must submit the request in writing to the Director with a detailed justification and include both the original budget and the proposed budget for any line items to be changed. The request should be submitted to the office sixty (60) days prior to the expiration of the contract.

The following guidelines apply:

- Increases in contract amounts due to changes in salaries or fringe benefits are not permitted.
- Prior to approval of the requested state-subrecipient contract amendment, TDOT must receive FTA approval of any necessary grant amendment or budget revision.
- DMTR shall notify the subrecipient in writing regarding approval, modification, or rejection.

#### **6.4.1 Amendment/Revision of FTA Grants**

Prior to changing the contract between TDOT and a subrecipient, TDOT must request any needed changes to the grant agreement between TDOT and FTA through TEAM/TrAMS. State contracts will be amended or revised only after FTA approval is secured.

#### **6.4.2 Amendments to the State-Local Contract:**

A contract amendment is required when proposed changes in the contract would:

- Increase the project amount
- Change the federal/state/local matching ratio
- Alter a budget line-item by more than twenty percent (20%)
- Add or delete a project budget line item from the contract budget
- Extend the period of availability of funds (if the original contract had an extension clause)
- Alter the scope or purpose of the approved project including:
  - changes to the size, or physical characteristics of items being purchased that are originally under contract
  - changes that will increase or reduce the number of units to be purchased or constructed where the change differs by 10 percent (10%) or more from the original number of units

#### **6.4.3 Budget Revision to the State-Local Contract**

A budget revision is appropriate if the subrecipient wishes to deviate from a grant budget line-item amount by up to twenty percent (20%) or as directed in the contract document. For a budget revision, any increase in one budget line item must be offset by an equal reduction of another line-item in the same Financial Purpose Code such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. The purpose, scope, total contract amount and term of the contract should remain consistent with the original project budget.

### **6.5 Inclusion of Federal Requirements**

The terms of the Master Agreement between TDOT and the FTA are incorporated into contracts with subrecipients by reference.

## **6.6 Additional Contract Provisions**

Additional contract provisions address the following:

- TDOT access to records upon request
- Timeframe for reimbursement and closeouts
- Document retention requirements
- Environmental tobacco smoke
- Federal Economic Stimulus Funding if ARRA funds are included

## **6.7 State Comptroller's Hotline**

Per state law, all transit facilities funded by TDOT must have information publicly displayed so that members of the public may report suspected government fraud, waste, or abuse to the Comptroller of the Treasury. Complaints are submitted through the State Comptroller's toll-free hotline (1-800-232-5454), transcribed, and sent to the appropriate state department for investigation. The Comptroller sends transit-related complaints to TDOT's Community Relations Division, which in turn sends the complaints to TDOT's DMTR. When a complaint is received, TDOT staff discusses the allegations with the appropriate agency and provides information about the outcome back to the Comptroller.

## **6.8 Reallocation of Residual Funds**

Any residual funds available after the expiration of a contract may be used by TDOT for the following activities:

- Extension of contracts underway
- Reallocated among current subrecipients based on formula distribution
- Reallocated among current subrecipients based on a competitive process
- Other purposes deemed appropriate by the Commissioner of TDOT

## Chapter 7. Grant Administration

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### 7.1 Accounting Requirements

All subrecipients are required to establish and maintain an accounting system to which all transportation-related costs, revenues and operating costs are recorded so that they may be clearly identified, easily traced and substantially documented. TDOT and the subrecipient shall both be responsible for documenting and supporting all costs charged to the project.

#### 7.1.1 Indirect Cost Allocation Plans

Subrecipients must have either an indirect cost allocation plan in compliance with the Tennessee's Policy 3 or the indirect cost allocation plan required of all local governments as a basis for indirect cost reimbursement requests.

#### 7.1.2 Programmatic Cost Allocation Plans

TDOT is working with subrecipients to develop programmatic cost allocation plans to better segregate the costs attributable to different FTA programs. The methodology used in these cost allocations may vary by subrecipient. Cognizant agency approval of the plan is required.

#### 7.1.3 Force Account Plans

As per FTA Circular 5010.1D, Grants Management, a force account is the use of a grantee's own labor force to carry out a capital grant project. Force account work does not include project administration activities which are otherwise direct project costs.

Prior to using a force account, subrecipients must have written approval from TDOT. TDOT requires subrecipients to prepare a force account plan if subrecipient forces are to be used for a capital project exceeding \$100,000. If work to be performed will exceed \$10,000,000, TDOT must submit the force account plan to FTA for prior approval.

#### 7.1.4 Certification that Contract Revenues are Restricted to Public Transportation Purposes

As stated above in regard to eligible operating expenses, operating expenses associated with the provision of contract services are eligible expenses if two (2) conditions are met:

- (1) The subrecipient's chief executive certifies to TDOT that contract service trips are open to the general public; and
- (2) The auditor performing the subrecipient's annual audit certifies to TDOT that all revenue generated through contract service is restricted to use in public transportation (certification by the chief executive rather than the auditor is acceptable for the 2014 audit).

Recognizing that most Fiscal Year 2014 audits are well underway, certification by the subrecipient's chief executive that all contract revenues are restricted to public transportation will suffice for the 2014 audits. However, subrecipients must plan to have the auditor complete the certification for the 2015 audit forward.

## **7.2 Requests for Reimbursement by Subrecipients**

Before a subrecipient may request reimbursement, a fully executed agreement must exist between the subrecipient organization and TDOT. Subrecipients shall submit invoices on forms and in a manner prescribed by TDOT. Requests for reimbursement will require a completed Schedule of Expenditures (SOE), a completed Invoice Checklist, and any documentation requested by the Program Manager. A subrecipient must also have on file with TDOT a signatory authorization form that designates the individual who has authority to sign invoices on behalf of the subrecipient organization. No request for reimbursement shall be approved for payment if the expenditures took place before the beginning date of the contract or after the term ending date of the contract. After a contract ends, subrecipients have a period of sixty (60) days to submit their final invoice or as directed in the contract.

### **7.2.1 Invoice Checklist**

TDOT has developed a checklist which subrecipients are required to submit along with requests for reimbursements. Subrecipients must deduct farebox revenue from gross operating expense to calculate net operating income. Revenue from human service contracts does not need to be deducted from gross operating expense. Program income (such as advertising or lease revenues) may be deducted from gross operating expenses for the grant in which it was earned or used as local match in future grants. If program income is not deducted from operating expenses or used as local match, it must be used for public transportation purposes per the Common Rule (49 CFR 18.25(g)(5)). Program income does, however, need to be reported on the invoice checklist since TDOT must report program income to FTA in Federal Financial Reports (FFRs). The invoice checklist also contains a number of questions to enhance oversight of several compliance areas, including DBE, Davis-Bacon, and farebox revenue. TDOT may add other items to the invoice checklist on an as-needed basis.

### 7.2.2 Statement of Expenditures

The Statement of Expenditures (SOE) has been developed in partnership with TDOT Finance. All expenses must be incurred during the term of the contract in order to be eligible for reimbursement. The SOE shall be submitted to TDOT no more often than monthly, with all necessary supporting documentation.

Each request shall clearly and accurately detail all of the following required information. Calculations must be extended and totaled correctly:

- Request/Reference Number (assigned by the subrecipient)
- Request Date
- Request Period (to which the reimbursement request is applicable)
- Grant Contract Number (assigned by the state)
- Subrecipient Name
- Tennessee Edison Registration ID Number referenced in preamble of any grant contract
- Subrecipient's Remittance Address
- Subrecipient's contact for request questions (name, phone, and/or fax)
- Itemization of Reimbursement Requested for the Invoice Period—it must detail, at minimum, all of the following:
  - The amount requested by grant budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by State Comprehensive Travel Regulations are attached to the invoice)
  - The amount reimbursed by grant budget line-item to date
  - The total amount reimbursed under the grant contract to date
  - The total amount requested (all line-items) for the invoice period

Terms of the contract between TDOT and subrecipients include the following items:

- A request under any grant contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by the grant contract and shall be subject to the grant budget and any other provision of the grant contract relating to allowable reimbursements
- A request under any grant contract shall not include any reimbursement request for future expenditures
- A request under any grant contract shall initiate the timeframe for reimbursement only when the state is in receipt of the invoice, and the invoice meets the minimum requirements for the SOE

### 7.2.3 Supporting Documentation for Expenditures

Supporting documentation shall detail the nature and propriety of the charges. Examples of adequate documentation include, but are not limited to:

- Properly executed payrolls
- Time records
- Invoices
- Contracts
- Vouchers
- Receipts
- Schedules that detail source documentation
- Explanations of how amounts on the SOE were calculated

As per the contract terms, TDOT may request any documentation deemed necessary to confirm expenses charged and their allowability.

## 7.3 TDOT Review and Approval of Requests for Reimbursement

### 7.3.1 Program Manager Checklist

When an invoice is received, it is examined along with the supporting documents by the DMTR and TDOT Finance. In FY14, DMTR implemented the use of a *Program Manager's Invoice Approval Checklist* to ensure that Program Managers examine the invoice and the supporting documentation before an invoice is approved for reimbursement.

### 7.3.2 Reimbursements to Subrecipients

Approval from DMTR's Director or Assistant Director is required before an invoice is processed for reimbursement. Following approval, DMTR's Invoice Processor reviews documentation and creates a voucher in Edison. TDOT's Division of Finance reviews documentation against the contract and purchase orders in the system to ensure that the supporting documentation attached to the voucher corresponds to what is entered in the system. This includes the invoice date and number, the vendor name and address, the amounts, terms, payment instructions, account codes and project information. The vouchers are specifically checked to confirm that attached supporting documents include a signed and approved schedule of expenditures summarizing the expenditure categories and amounts being billed. They must include the following:

- The date the service was provided or expenditure was made to confirm that the purchase falls within the contract/grant terms
- If a vehicle purchase is made, then the VIN number of the vehicle must be shown on the documentation accompanying the invoice and a copy of the Bill of Sale must be attached
- For salaries and wages, documentation must include a detailed schedule which includes salaries and benefits or a general ledger report generated by the entity's accounting system
- Proof of payment (i.e., copies of checks)
- Any other document deemed necessary by the Program Manager

In lieu of copies of invoices (other than capital purchases) and copies of checks, the entity has the option of submitting a report generated from its accounting system that clearly identifies the expenses incurred and the payment information that relates to a particular expense. TDOT may require full documentation for any and all expenses when deemed necessary.

Following approval by TDOT Finance, funds are transferred to the subrecipient via ACH or mailed check.

## **7.4 Draw-Down of FTA Funds**

On a monthly basis, TDOT performs a drawdown of FTA funds to request reimbursement for public transit projects that involve federal participation. Funds are drawn for projects in open grants using the FTA's Electronic Clearing House Operation (ECHO) system. Funds are drawn from each grant based on grant activities and are requested or returned using whole-dollar amounts. The specific types of funds drawn are based on Financial Purpose Code (FPC) and the account classification codes for each grant as stated in TEAM/TrAMS.



## 7.5 Reporting Requirements

### 7.5.1 Program-Specific Service Reporting Requirements for Subrecipients

Reporting requirements vary by grant program and are summarized in the table below. If necessary to obtain compliance, TDOT may withhold reimbursement of invoices if a subrecipient is delinquent in reporting by thirty (30) days or more.

Program	Reporting Requirement
All	<ul style="list-style-type: none"><li>“Quarterly Checklist for TDOT Subrecipients of FTA Funds” will be required of all subrecipients starting with the quarter ending September 30, 2014. The one-page checklist touches on numerous compliance issues and serves the purpose of alerting TDOT to developments of significance that require attention.</li></ul>
5310	<ul style="list-style-type: none"><li>5310 subrecipients are required to submit reports to DMTR at a frequency specified in their contract with TDOT. Subrecipients must report vehicle identification numbers, mileage, end of month odometer reading total miles, number of ambulatory and non-ambulatory individuals, elderly, and persons with disabilities and vehicle operating cost. A Basic Vehicle Inspection and a Maintenance log are submitted annually to the Asset Monitor.</li></ul>
5311	<ul style="list-style-type: none"><li>Historically, TDOT contracts have required 5311 subrecipients to submit a quarterly report to TDOT on April 30, July 31, October 31, and January 31 (one month following the end of each quarter). Quarterly reports documented operational costs, operating revenues, total ridership, sponsored trips (contract trips), unsponsored trips (general public trips), and additional information as requested by TDOT. Since July 1, 2013, TDOT has required reporting on trips by category (total, sponsored, unsponsored, JARC and New Freedom) as part of the invoice checklist submitted along with reimbursement requests. Going forward, quarterly reports may be eliminated if it is confirmed that sufficient information is provided in the monthly invoice checklist.</li></ul>
5316	<ul style="list-style-type: none"><li>By contract, 5316 subrecipients must submit to TDOT “brief, periodic progress reports to the State as requested.” 5316 subrecipients also report ridership statistics on the invoice checklist when requesting reimbursement from TDOT.</li></ul>
5317	<ul style="list-style-type: none"><li>By contract, 5317 subrecipients must submit to TDOT “brief, periodic progress reports to the state as requested.” 5317 subrecipients also report ridership statistics on the invoice checklist when requesting reimbursement from TDOT. Subrecipients may also report on the number of new passengers that receive travel training, number of trips by new clients with disabilities, number of site visits conducted by a travel trainer, and the number of trips scheduled by a mobility manager.</li></ul>
5339	<ul style="list-style-type: none"><li>5339 subrecipients must report vehicle identification numbers, mileage, end of month odometer reading total miles, funding source, active service date, and vehicle cost with application. A Basic Vehicle Inspection and a Maintenance Log are submitted annually to the Asset Monitor.</li></ul>
Charter Bus	<ul style="list-style-type: none"><li>Any subrecipient that provides charter service is required to submit a report to TDOT in a format that replicates the FTA report format.</li></ul>

### **7.5.2 Federal Financial Reports**

TDOT submits Federal Financial Reports (FFR) as required by the FTA. The FTA currently requires TDOT to submit FFRs for the ARRA, earmark, and construction grants on a quarterly basis. The FTA requires FFRs to be submitted for all other grants on an annual basis. Presently, TDOT submits FFRs for all grants on a quarterly basis, starting with the FFY 2014 period. Going forward, TDOT may change the frequency of FFR reporting after consultation with FTA.

FFRs are submitted for all active grants. They are also submitted as needed for new grants or grant amendments when there is pre-award authority to incur costs on a grant. FFRs are also submitted when TDOT and the FTA are in the process of closing grants.

### **7.5.3 Milestone Progress Reports**

TDOT submits Milestone Progress Reports (MPRs) as required by FTA. At the time of this writing, TDOT is submitting quarterly MPRs in an effort to improve the quality of TDOT's MPRs and establish better coordination with the submittal of FFRs. Going forward TDOT and FTA will discuss whether to change the frequency of reporting to the standard FTA schedule or continue quarterly reporting.

Milestone updates are reported for each activity line items (ALIs) included in TDOT's grant application to FTA. Revised milestones shall be entered for all grant revisions or amendments. If the estimated completion date for the grant has changed, the revised date shall be entered with an explanation as to why the date has changed.

#### **7.5.4 Disadvantaged Business Enterprise (DBE) Reports**

Biannually, states are required to submit a report to FTA documenting the use of Disadvantaged Business Enterprises for FTA-funded contracting opportunities. ARRA projects require quarterly DBE reporting to FTA. TDOT requests pertinent information from subrecipients and compiles data on TDOT contracts for submission to FTA. TDOT's Division of Civil Rights assists in confirming whether the businesses reported as DBEs by subrecipients are actually TNUCP-certified DBEs. DMTR aggregates information about the expenditures of all grant subrecipients in order to complete the report. All subrecipients that receive planning, capital, and/or operating assistance must submit a DBE report to DMTR.

#### **7.5.5 Charter Bus Reports**

TDOT requires any subrecipient providing charter service to submit a quarterly charter report. TDOT compiles the submissions from subrecipients and reports charter service activity to FTA at the end of every quarter.

#### **7.5.6 National Transit Database (NTD) Reports**

As a recipient of 5311 funds, TDOT is required to submit data for the National Transit Database (NTD) on an annual basis. Subrecipients of 5311 funds submit the completed NTD forms to TDOT and TDOT submits the data to NTD. Rural subrecipients that also receive 5307 funds and report to NTD directly are required to submit NTD's Urban Recipient Form (RU-23) containing financial data to TDOT.

#### **7.5.7 Quarterly Lobbying Reports**

Federal financial assistance may not be used to influence any Member of Congress or an officer or employee of any agency in connection with the making of any federal contract, grant, or cooperative agreement. TDOT's subrecipients, contractors, and third-party contractors that are awarded \$100,000 or more must certify that they will adhere to federal lobbying regulations and must disclose the expenditure of non-federal funds for such purposes per 49 CFR Part 20.

Lobbying regulations do not prohibit general advocacy for transit. Providing information to legislators about the services a recipient provides in the community is not prohibited, nor is using non-federal funds for lobbying, so long as the required disclosures are made.

Any subrecipient that receives over \$100,000 in federal funds and employs the services of a lobbyist using non-federal funds must provide TDOT with a form LLL on a quarterly basis so that TDOT may submit the aggregated information to FTA.

## Chapter 8.      **Audit and Closeout**

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### **8.1 Closeout of Contracts with Subrecipients**

#### **8.1.1 Disbursement Reconciliation and Close Out: Rule 0620-3-3-.07**

In Tennessee, subrecipient contracts have a period of time (generally 45 to 90 days) after the end date of a contract to submit their final invoice. At the end of this period, DMTR staff will begin close out procedures for said grant.

Closeout procedures will include the following steps:

- DMTR staff contacts the subrecipient informing them of the Division's intent to process close out activities for a grant
- DMTR will begin the internal process of closing out federal and state monies on expired contracts in coordination with TDOT Finance Division
- Unexpended state and federal funds may be reallocated among eligible subrecipients for eligible activities at the discretion of the TDOT Commissioner and contingent upon FTA approval of any necessary grant amendments or budget revisions

#### **8.1.2 Closing the Purchase Order**

The following procedure is used to close a purchase order (PO) after a contract has been fully expended or the term of the contract has ended:

- When a subrecipient submits the final invoice, the invoice is marked "FINAL INVOICE."
- Staff verifies the contract end date
- After the final invoice has been approved, staff reconciles Edison with the grant reconciliation document
- Following reconciliation, DMTR staff completes a form requesting closure of the PO and submits it to the TDOT Finance Division
- The TDOT Finance Division closes the PO

#### **8.1.3 Closing the TDOT Project**

After the PO has been closed, the following procedure is used to close the TDOT project after a contract has been fully expended or the term of the contract has ended:

- DMTR staff contacts the subrecipient and informs them of DMTR's intent to process close out activities for the expired grant
- DMTR begins the internal process of closing out federal and state monies on the expired grant which includes coordination with TDOT Finance for final deobligation of funds

## **8.2 Closeout of FTA Grants**

### **8.2.1 Grant Closeout**

Grant closeout is initiated when all approved activities are completed and/or applicable federal funds expended. TDOT submits the following in TEAM/TrAMS as part of the grant closeout process:

- A final budget reflecting actual project costs by scope and activity
- A final FFR
- A final narrative Milestone Progress Report (MPR) indicating the actual completion date of each ALI
- A list of capital assets purchased under the grant
- A request to deobligate any unexpended balance of federal funds
- Any other reports required as part of the terms and conditions of the grant

## Chapter 9. Procurement

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Procurement procedures used by TDOT and grant subrecipients shall comply with applicable state law and federal requirements. Tennessee uses the following thresholds for procurements:

Micro-Purchase	<\$3,000
Small Purchase	<\$10,000
Formal Purchase under \$100,000	<\$100,000
Formal Purchase over \$100,000	>\$100,000

### 9.1 Federal Provisions Applicable to States and Subrecipients

#### 9.1.1 Full and Open Competition

Full and open competition procedures are dependent on procurement types and amounts. Subrecipients must conduct procurement transactions in a manner providing for full and open competition. They are prohibited from restricting competition in federally supported procurement transactions. Some situations that restrict competition include, but are not limited to, unreasonable qualification requirements, unnecessary experience requirements, excessive bonding, noncompetitive pricing practices between firms, noncompetitive awards to firms on retainer, organizational conflicts of interest, “brand name” only specifications, or any arbitrary action in the procurement process.

Sole source procurements are subject to strict scrutiny. Subrecipients that intend to procure through a non-competitive process must provide a justification to TDOT and receive written approval prior to proceeding with the procurement. If the state intends to conduct a sole source procurement, Tennessee Code Annotated §4-56-107(a), requires that "all requests of the procuring agency to procure goods or services by negotiation with a single service provider, referred to in this section as a noncompetitive contract, shall be contemporaneously filed with the fiscal review committee of the general assembly, comptroller of the treasury and the chief procurement officer." Additionally, the Fiscal Review Committee coordinates the review process with the Chief Procurement Office and the Comptroller of the Treasury as directed in Tennessee Code Annotated §4-56-107(b)(5)(A).

#### 9.1.2 Prohibition on Dividing Procurements to Avoid Requirements

Various procurement methods will be discussed later in Chapter 9. The requirement cited here is that FTA recipients and subrecipients may not divide a procurement in order to avoid surpassing a threshold that would trigger a requirement for a more complex method.

If a subrecipient procures for the same service or product within a twelve (12) month period, and both of the following apply, there may be cause for concern:

- Each separate procurement was below a given threshold
- Together the separate procurements would have exceeded the threshold, requiring a more robust procurement effort

If these conditions are present, TDOT may request that the subrecipient provide an explanation for the repeat procurement. However, it is important to note that subrecipients may split large procurements in order to make the project feasible for small businesses.

### **9.1.3 Prohibition on Geographic Preference for Vendors**

FTA grant recipients and subrecipients are not permitted to award contracts based upon a geographic (Tennessee) preference, such as Tennessee vendors or vendors in the region where a subrecipient is located. All vendors, regardless of geographic location, must have an equal opportunity to compete for available contracting opportunities. The prohibition on geographic preference for vendors does not preclude consideration of state licensing when procuring architectural and engineering services under the Brooks Act.

### **9.1.4 Procurement of Architectural & Engineering Services**

Architectural and engineering services shall be procured in compliance with Brooks Act provisions. Procurement of architectural and engineering services under the Brooks Act is an exception to the Geographic Preference prohibition.

- The procuring entity must use qualifications-based procurement procedures for A&E services and for services that are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property
- Only qualification, and not price, is considered in the first step of the procedure
- Negotiations are first conducted with the most qualified contractor
- Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified contractor
- The third party contract or subcontract must be performed and audited in compliance with Federal Acquisition Regulation (FAR) Part 31 Cost Principles
- The recipient and third party contractor must accept FAR indirect cost rates for the one year applicable accounting periods established by a cognizant federal or state government agency
- After the rate is accepted, the rates will apply for purposes of contract estimation, negotiation, administration, reporting, and payments, not limited by administration of *de facto* ceilings
- Before requesting or using the above rate, a recipient must notify the affected firms. The data must be kept confidential and may not be accessible by or provided by the agency or group of agencies that share cost data except by written permission of the audited firm

### **9.1.5 Debarment and Suspension**

FTA grant recipients and subrecipients awarding contracts to vendors over \$25,000 must certify that the vendor is not debarred or suspended from any federal agency. TDOT and FTA subrecipients shall not enter into any third-party agreement with any party included in the “US General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs.” This pertains to all FTA sponsored program funds. The listing of excluded parties can be located at: <https://www.sam.gov/portal/public/SAM/#1>. A screen print of the search result that shows the vendor was not found must be submitted to TDOT together with procurement documentation.

### **9.1.6 Buy America**

Buy America affects vehicle, equipment, steel, iron or manufactured product purchases and construction projects that are valued at \$100,000 or more. It provides, with exceptions, that federal funds may not be obligated for transportation projects unless the steel and manufactured products used in them are produced in the United States. The limitation is based on the value of the procurement not the price of the item.

Subrecipients must obtain a signed certification (before purchase) from each successful bidder providing steel, iron, or manufactured products when the total purchase price of the project exceeds the threshold. In construction projects, the contractor is required to certify that materials provided either comply or do not comply. If materials do not comply then a waiver from the FTA must be received before awarding the contract. These certifications are required to be retained in the contract file and available for inspection upon request.

### **9.1.7 Disadvantaged Business Enterprises**

Subrecipients are encouraged to reach out to DBEs and small businesses and they are required to track DBE participation in FTA-funded projects. FTA grant recipients and subrecipients are required to track the usage of DBE firms. Subrecipients are encouraged to "unbundle" projects consisting of distinct scope elements in order to increase the competitiveness of small businesses, including DBEs. Subrecipients are encouraged to facilitate DBE participation by reducing procurement amounts to ensure competitive participation by DBE's in the bidding process. If a subrecipient intends to divide a procurement for the explicit purpose of encouraging DBE participation, then advance approval from DMTR is required.



### **9.1.8 Awards to Responsible Contractors**

Federal grant recipients and subrecipients must deem the selected contractors as “responsible.” Responsible contractors have the following characteristics:

- A satisfactory record of integrity
- Are neither debarred or suspended from federal programs under DOT regulations
- Are in compliance with the Common Grant Rules’ affirmative action and FTA’s Disadvantaged Business Enterprise requirements
- Are in compliance with public policies of the Federal Government per 49 USC Section 5325(j)(2)(B)
- The necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them
- Are in compliance with applicable licensing and tax laws and regulations
- A sufficient financial resources to perform the contract
- The necessary production, construction, and technical equipment and facilities
- Are able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments
- Are able to provide a satisfactory current and past performance record

Contractors will be required to provide information regarding their responsible characteristics in the procurement checklist to be submitted with the request for procurement.

### **9.1.9 Prompt Payment of Subcontractors**

Under a contract that includes FTA funds, the prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contract receives from TDOT. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of TDOT. This clause applies to both DBE and non-DBE subcontracts.

### **9.1.10 Inclusion of Required Third Party Contract Provisions**

When contracting with third parties for goods and/or services, federal grant recipients and subrecipients must incorporate all required federal clauses into the contract with the third party contractor. Additionally, the third party contractor must be contractually obligated to include all of the required federal clauses in contracts with all subcontractors. TDOT will work with subrecipients to determine which clauses are appropriate. Current information about required clauses will be posted on the DMTR website and will be updated as required.

### **9.1.11 Additional Requirements for Procurement of Vehicles**

Additional procurement requirements apply to the purchase of vehicles.

#### **9.1.11.1 Pre-Award and Post-Delivery Audits**

Procurements for vehicles must be in accordance with “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases” (49 CFR Part 633; Federal Register March 31, 1992). Any subrecipient that purchases rolling stock must certify to TDOT that it has conducted a pre-award and post-delivery audit to ensure compliance with its bid specifications, Buy America requirements, and Federal Motor Vehicle Safety Standards. It is important to note that the pre-award and post-delivery audits must be performed each time a purchase is made from a contract with a vendor, not just at the time of the initial procurement of the vehicle contract.

Subrecipients must review the manufacturer's Buy America certification and supporting documentation before a contract is awarded to purchase vehicles (pre-award audit). The documentation review shall include vehicle sub-components (place of origin, cost and place of final assembly). Subrecipients are responsible for confirming that the manufacturer can meet the Buy America requirements. If a resident inspection of vehicles during the manufacturing process is required by FTA for a particular procurement, the subrecipient is responsible for arranging this inspection. TDOT DMTR staff will provide technical assistance if needed or requested.

Subrecipients must perform a post-delivery audit after vehicles have been delivered. This post-delivery audit ensures that the manufacturer complied with Buy America, the Federal Motor Vehicle Safety Standards, and the subrecipient's specifications. Subrecipients must complete the post-delivery audits before they accept the vehicles and pay the vendor. TDOT maintains the post-delivery certifications in the vehicle asset file.

Documentation demonstrating that pre-award and post-delivery audits have been completed must be provided to TDOT at the time a subrecipient invoices for a vehicle they have procured independently. For vehicles procured through the statewide vehicle contract administered by the Department of General Services, these documents are maintained at the Department of General Services along with other documentation associated with the procurement.

#### **9.1.11.2 New Model Bus Testing**

New bus models must be tested at the FTA sponsored test facility in Altoona, Pennsylvania, before federal funds can be expended to purchase them. The FTA rule exempts certain vehicles from testing (usually sedans and non-modified vans). The primary purpose of the testing program is to determine the strengths and weaknesses inherent in the particular model for typical operating conditions. Ideally, subrecipients use the bus-testing report as one of the criteria used to select the vehicle for purchase.

Subrecipients purchasing equipment with federal funds are required to receive the Altoona bus test report for each vehicle purchased and include it in procurement files if the test is required. The vendor, prior to subrecipients signing off, should provide the report on post-delivery certification forms and acceptance of the vehicle(s) from the vendor. The Altoona bus test report for these procurements must be submitted to TDOT with other procurement documentation.

#### **9.1.11.3 Five-Year Contract Term Limitation**

Both statewide contracts and subrecipient-procured multi-year contracts for revenue rolling stock may not exceed five years.



### **9.1.12 Additional Requirements for Purchase of Transportation Services**

Subrecipients may purchase transportation service from private sector transportation providers as well as public providers. Provision of service must be procured in accordance with the procurement policies identified in this State Management Plan. DMTR shall approve the proposed purchase of service contracts prior to execution by the subrecipient. Under such arrangements, certain conditions apply to the purchase of service contracts:

- The contract for purchased transportation services must be either a cost reimbursement or fixed price contract
- Fixed price contracts shall have the cost calculated on a service or route specific basis, either vehicle or passenger miles, or a combination of both. While fuel cost escalation clauses are acceptable, a contract is not subject to other adjustments related to a contractor's cost experience in performing the contract
- Cost reimbursement contracts should allow for a periodic evaluation of the fixed rate in order to accommodate changes in transportation costs. These contracts establish an estimate of total cost for obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without approval
- Profit is an eligible cost in the contract; however, the amount of profit must be established as a fixed fee, not as a percentage figure
- Depreciation of vehicles is an eligible expense in private sector purchases of service contracts. Depreciation must be based on acquisition cost, not replacement cost, and is not eligible if the vehicles were originally purchased with federal funds
- Management or administrative costs incurred by the contract provider should be prorated for only that portion of the operator's service being purchased

## **9.2 Procurement by TDOT**

### **9.2.1 TDOT Procurement through Department of General Services**

In consultation with subrecipients, DMTR, TDOT's Division of Central Services, and the Department of General Services Central Procurement Office (CPO) collaborate to develop vehicle specifications for ADA buses and conversion vans. These specifications are forwarded to the CPO for review. A pre-bid conference is held with those vendors that have an interest in submitting a bid. During this conference, comments and requests for changes in the specifications are taken into consideration. Once this is completed, an Invitation to Bid document is published. DMTR staff will perform an independent cost estimate for each specified vehicle in the Invitation to Bid in order to ensure received bids are reasonable. The bids are required to include all applicable FTA contract clauses. Once the bids are submitted, they are opened by CPO at a formal bid opening. CPO and DMTR staff then evaluate the bids and identify the selected vendor for each vehicle. After DMTR confirms that the prospective vendor is not debarred or suspended, CPO awards the contract.

When TDOT is ready to purchase a vehicle, a purchase order (PO) is prepared and entered into Edison, the financial management system used by state government in Tennessee. The purchase order specifies the source of funds to be used for each purchase. TDOT shall, as required, arrange for a resident inspector to visit the vehicle manufacturer's production facility during the final assembly period. The resident inspector will monitor the final assembly process and complete an inspection report describing the construction activities and confirming that the vehicles fulfill the contract specifications. When vehicles are delivered, TDOT must ensure that a post-delivery review is completed. The post-delivery review includes a complete visual inspection and road tests to demonstrate that the vehicles meet the contract specifications.

### **9.2.2 Direct Procurement by TDOT**

When procuring goods/services with FTA funds, TDOT is required to follow both the requirements of FTA and the requirements of the State of Tennessee. TDOT procures directly when specialized goods or services are needed. Examples of such procurement may include:

- Consulting services for technical assistance to subrecipients
- Planning studies
- Training services for transit agency staff provided under Rural Transit Assistance Program RTAP

Required documentation associated with direct procurements by TDOT will be maintained in the Multimodal Division.

## 9.3 Procurement by Subrecipients

Subrecipients of FTA funds may procure for goods and services in three general ways:

- By ordering from the Tennessee’s Department of General Services’ statewide contracts
- By procuring directly in compliance with the procurement policy adopted by their agency and pertinent federal procurement requirements
- By “piggybacking,” or using the properly-procured vehicle contracts of another transit agency to acquire vehicles, subject to the guidance provided in the “Piggybacking Checklist” available in the FTA’s *Best Practices Procurement Manual*

For procurements of consultant services and for procurements of assets with a per unit value of at least \$5,000 or a useful life of more than one year, TDOT concurrence is required at several points in the procurement process as shown below.

Phase	Form Required	Information Provided by Subrecipient
Planning	Procurement Planning Form	<ul style="list-style-type: none"> <li>• General description of goods/services to be procured</li> <li>• Reason for the procurement</li> <li>• Technical assistance needed if applicable</li> <li>• Anticipated method of procurement</li> <li>• Approximate value of procurement</li> <li>• Description of how the procurement will be executed</li> <li>• Applicability of Buy America requirements</li> <li>• Cost/price analysis</li> </ul>
Prior to Advertising	Request to Proceed with Procurement	<ul style="list-style-type: none"> <li>• Description of how the procurement will be executed</li> <li>• Description of the process used for free and open competition</li> <li>• Full technical specifications of items for bid</li> <li>• Draft Request for Bids or Request for Proposal</li> <li>• Proposal Evaluation sheet</li> </ul>
Prior to Signing a contract	Request to Enter into Contract	<ul style="list-style-type: none"> <li>• Bid Tabulation Sheet</li> <li>• Sample Newspaper Advertisement of Bid</li> <li>• Sample Third-Party Contract Agreement</li> <li>• Approximate value of procurement</li> <li>• Identification of the prime contractor and any subcontractors</li> <li>• Verification of TNUCP DBE certification for the prime contractor or subcontractors, if applicable</li> <li>• Plan for monitoring to ensure that DBEs perform the work (if DBEs are included)</li> <li>• Information about whether any preference was given based on geographic location</li> <li>• Information about whether the proposed contractor is responsive and responsible</li> <li>• Screen print from SAM.gov search for debarment and suspension</li> <li>• Pre-award Buy America certification (vehicles)</li> <li>• Pre-award Buy America audit (vehicles)</li> <li>• Altoona bus testing report (vehicles)</li> <li>• In-plant inspection (urbanized areas greater than 200,000 people procuring more than 10 vehicles)</li> <li>• In-plant inspection (rural and urbanized areas 200,00 or fewer in population procuring more than 20 vehicles)</li> <li>• TVM certification</li> <li>• FMVSS</li> </ul>

Subrecipients shall also obtain concurrence from TDOT in special circumstances such as those identified below.

<b>Form Required</b>	<b>Situation</b>	
Request to Amend Contract	Amending a contract	<ul style="list-style-type: none"> <li>• Reason and justification for amendment request</li> <li>• Amount to be amended</li> </ul>
Request to Remove a DBE Subcontractor	When a DBE is removed	<ul style="list-style-type: none"> <li>• Explanation of the reason the DBE was a subcontractor originally</li> <li>• Explanation of why removal is proposed</li> <li>• Notify the TDOT Civil Rights Office Small Business Development Program in writing</li> <li>• TDOT follows SP1247 for this process</li> </ul>

<b>Certifications and Other Requirements</b>	<b>Comments</b>
Bus Testing Certification and Report	<b>Obtain prior to award</b> Procurements of buses and modified mass produced vans
TVM Certifications	<b>Obtain prior to award</b> Procurements of buses and modified mass produced vans
Buy America Certification	<b>Obtain signed certification with bid or proposal</b> Procurements of steel, iron or manufactured products over \$100,000
Pre-Award Audit	<b>Obtain prior to award</b> Rolling stock procurements over \$100,000
Pre-Award Buy America Certification	<b>Sign prior to award</b> Rolling stock procurements over \$100,000
Pre-Award Purchaser's Requirement Certification	<b>Sign prior to award</b> Rolling stock procurements
Post-Delivery Audit	<b>Obtain prior to acceptance</b> Rolling stock procurements over \$100,000
Post-Delivery Buy America Certification	<b>Sign prior to acceptance</b> Rolling stock procurements over \$100,000
Post-Delivery Purchaser's Requirement Certification	<b>Sign prior to acceptance</b> Rolling stock procurements
On-Site Inspector's Report	<b>Obtain prior to acceptance</b> Rolling stock procurements for more than 10 vehicles for areas greater than 200,000 in population and more than 20 vehicles for areas of 200,000 or fewer in population
Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification	<b>Obtain prior to award and then sign prior to acceptance</b> Rolling stock procurements
Excluded Parties Listing System search	<b>Perform prior to award</b> Procurements greater than \$25,000
Lobbying Certification	<b>Obtain signed certification with bid or proposal</b> Procurements greater than \$100,000
Standard Form LLL and Quarterly Updates (when required)	<b>Obtain prior to award</b> Procurements greater than \$100,000 where contractor engages in lobbying activities



<b>Certifications and Other Requirements</b>	<b>Comments</b>
Contract Administration System	<b>Verify prior to contract award</b>
Record of Procurement History	<b>Verify prior to payment</b> The file contains a complete procurement history.
Protest Procedures	<b>Verify prior to solicitation</b>
Selection Procedures	<b>Verify prior to solicitation</b> The procurement contains a description of contractor selection method.
Independent Cost Estimate	<b>Verify prior to solicitation</b> An independent cost estimate is in the procurement file.
Cost/Price Analysis	<b>Verify prior to award</b> A cost or price analysis is in the procurement file.
Responsibility Determination	<b>Verify prior to award</b> A contractor responsibility determination is in the procurement file.
Justification for Noncompetitive Awards	<b>Verify prior to award</b> If applicable
No excessive bonding requirements	<b>Verify prior to solicitation</b> If applicable
No exclusionary specifications	<b>Verify prior to solicitation</b>
No geographic preferences	<b>Verify prior to solicitation</b> Except for A&E services
Evaluation of Options	<b>Verify prior to award</b> If applicable
Exercise of Options	<b>Verify prior to award</b> If applicable

### **9.3.1 Procurement through Tennessee Department of General Services**

TDOT encourages subrecipients to purchase from the statewide vehicle contract that is maintained by the Department of General Services' Central Procurement Office. Subrecipients frequently take advantage of the opportunity to purchase vehicles through the CPO. DMTR is responsible for ensuring that state vehicle procurements include all required FTA clauses in bid documents and contracts. All bid documents and contracts are reviewed by TDOT to confirm compliance.

When purchasing equipment or services available on a state contract using federal funds, regardless of the amount of federal funds expended, the subrecipient must ensure that appropriate federal clauses are incorporated under a separate document with the selected vendor. This is accomplished by ensuring that the selected vendor is provided a copy of applicable federal clauses and returns a signed document agreeing to the specified clauses to the purchasing subrecipient for inclusion in the subrecipients procurement file.

### **9.3.2 Direct Procurements by Subrecipients**

TDOT permits subrecipients to use the procurement policy that has been adopted by their governing body provided the procurement policy meets all FTA requirements. TDOT reviews subrecipients' procurement policies during on-site compliance reviews. If a subrecipient changes their procurement policy, a copy of the revised policy must be submitted to TDOT for approval. TDOT encourages all subrecipients to have formal bid protest procedures within their procurement policy.

When a subrecipient elects to procure directly rather than through the Department of General Services, they must follow all federal procurement requirements. Subrecipients are required to obtain approval from TDOT at several points in the procurement process for procurements of consultant services and for procurements of assets with a per unit value of at least \$5,000 or a useful life of more than one (1) year, as shown in the table above. The subrecipient is responsible for settling disputes resulting from any procurement action. TDOT's role in a bid protest shall be limited to the conditions set forth in FTA Circular 4220.1F (as amended).

A single subrecipient shall only procure for only the goods or services that they realistically expect to need and utilize. For example, it is not acceptable to procure for a larger quantity of vehicles than the subrecipient actually anticipates purchasing in order to make the contract available to other agencies for piggybacking.

Upon delivery of the procured item(s), a subrecipient must submit the invoice, purchase order, cancelled check(s) and other paperwork depending on the type of purchase to TDOT along with the request for reimbursement. The subrecipient must pay 100 percent (100%) of the contractor's invoice, and TDOT will reimburse the appropriate amount after the subrecipient submits a request for reimbursement.

When vehicles are procured, subrecipients must perform a post-delivery audit after vehicles have been delivered. This post-delivery audit ensures that the manufacturer complied with Buy America, the Federal Motor Vehicle Safety Standards, and the subrecipient's specifications. Subrecipients must complete the post-delivery audits before they accept the vehicles and pay the vendor.

Documentation demonstrating that pre-award and post-delivery audits have been completed must be provided to TDOT at the time a subrecipient invoices for a vehicle they have procured independently. For vehicles procured through the statewide vehicle contract administered by the Department of General Services, these documents are maintained at the Department of General Services along with other documentation associated with the procurement. TDOT maintains post-delivery certifications in the vehicle asset file.

### **9.3.3 Procurement by “Piggybacking”**

TDOT generally discourages the use of piggybacking as a procurement method. The term “piggybacking” refers to using the properly-procured vehicle contracts of another transit agency to acquire vehicles. Requests to piggyback would be subject to strict scrutiny for compliance with all pertinent FTA requirements. TDOT will conduct the review of any proposed piggybacking for compliance with the “Piggybacking Checklist” provided in the FTA’s *Best Practices Procurement Manual*.

## Chapter 10. Construction

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TDOT's subrecipients may construct and renovate capital facilities that are necessary for public transportation. Transportation providers must adhere to and satisfy all rules and requirements of their local jurisdiction. Subrecipients engaging in construction must comply with FTA bonding requirements based upon the size of the project.

### 10.1 Planning

Prior to beginning a construction project, subrecipients must complete appropriate planning and design activities and documents. No pre-planning activity is required for an existing office building unless significant structural improvement is anticipated, such as an addition.

#### 10.1.1 Feasibility Study

Subrecipients may retain a consulting firm to determine the most cost effective way to build a desirable facility utilizing an appropriate solicitation process. The study may include comparisons on site location and new construction versus purchase and renovation. At a minimum, the study will analyze current needs, anticipated future needs, Title VI, and ADA considerations. The study may also consider environmental issues and preservation of historical elements if appropriate.

#### 10.1.2 Site Selection

TDOT provides oversight for the siting of transit facilities funded with FTA funds for which TDOT is the Direct Recipient. Subrecipients shall contact TDOT regarding their intent to site a transit-related facility as early as possible. A consulting firm or real estate agent may be retained to compare various properties to determine the most suitable location for a property or facility. If a donated property is being considered, such property must be appraised at the current fair market value by a licensed appraiser and the appraisal must be submitted to TDOT. Prior to the acquisition of a property, a Title VI Analysis must be performed with technical assistance provided by TDOT staff and/or an on-call consultant.

#### 10.1.3 Environmental Review

An environment review is necessary for new construction or when a building is purchased for renovation. All proposed project sites must be evaluated and assessed to determine impact, if any, on wetlands, streams, high biotic potential, livable communities' considerations and federally protected threatened or endangered species and their habitats. A consulting firm may be used to determine if there are any environmental issues that need to be addressed prior to construction.

Subrecipients must perform the appropriate level of environmental review. TDOT will assist subrecipients with the environmental review process and submit environmental documents to FTA for approval. Federal funds will not be made available for any facility purchase or construction until the environmental documents are reviewed and approved by FTA.

### **10.1.4 Land Acquisition**

One (1) copy of the appraisal must be submitted to TDOT for review. The appraisal review and concurrence typically takes about 2–4 weeks. TDOT will issue a letter indicating that the transportation provider may proceed with the offer to purchase the land. A copy of the Offer to Purchase shall be submitted to DMTR for review and approval before the subrecipient enters into a contract to purchase land.

## **10.2 Design Phase**

A registered architect or engineer must prepare plans and specifications in accordance with federal and state laws applicable to construction related projects. Regardless of the project cost, all plans and specifications must address the following:

- Plan must include major structural or foundation changes
- Plan must include major structural change in framing or foundation support systems
- Plan must include construction of or additions to public buildings

Separate specifications must be drawn for each of the following four categories regardless of estimated project cost or as may be deemed applicable by the local building inspector:

- Heating, ventilating, air conditions and accessories
- Plumbing and gas fittings and accessories
- Electrical wiring and installations
- General work relating to the erection, construction, alteration or repair of the building that is not included in the first three categories

### **10.2.1 Selection of a Registered Architect or Professional Engineer**

Subrecipient shall retain a qualified registered architect or professional engineer. The subrecipient will issue a Request for Qualifications (RFQ) indicating requirements for service and provide a description of the project. Selection shall be based on qualifications and competence. Price negotiation is conducted with the most qualified offeror. TDOT shall review and approve the selection process prior to the transit provider entering into a contractual agreement with the selected Architect or Engineer.

### **10.2.2 Schematic Design Phase**

The Architect or Engineer shall prepare the following:

- A scaled site plan showing location and the size of the facility in relation to existing buildings, roads, walkways, utility service, etc.
- Single line drawings of the floor plan, including mechanical and electrical rooms, service areas, etc.
- A general description of the project based on the designer's studies indicating the construction materials, framing systems, and mechanical, electrical and plumbing systems
- A statement of probable construction cost including cost estimates for site work, utility extensions and other items outside the structure

Plans, the cost analysis, and other relevant documentation shall be submitted to TDOT for review. TDOT staff from other Divisions will assist DMTR staff in reviewing the designs. Following approval, TDOT will issue a notice to proceed to the next phase.

### **10.2.3 Design Development Phase**

Architect or Engineer shall prepare Design Development Documents (DDD) which include detailed plans and specifications. The DDD will include:

- All basic elements, systems and materials to be used in the project
- A soil investigation report and all other reports or studies relative to the project
- A statement of probable construction cost based upon area, volume or other appropriate units

The Architect or Engineer must receive approval from the local building inspector prior to submitting documents to TDOT. Additional reviews may be necessary if required by law.

Plans and documentation shall be submitted to TDOT for review and approval. Following approval, TDOT will issue a notice to proceed to the next phase.

### **10.2.4 Construction Document Phase**

The architect/engineer shall prepare working drawings and specifications in detail including materials; workmanship; finishes; mechanical and electrical systems; special equipment; site work; utility connections and services; bidding information; proposal, contract and bond forms; General and Supplementary General Conditions of the Contract; and any and all other information required for receiving of bids on the project. A Soil and Erosion Control Plan must be filed with appropriate agency.

A cost estimate shall be prepared and submitted to TDOT using quantity take-offs of major components and projected unit costs. Overhead, profit, taxes, insurance, etc., shall be included. Estimates must be prepared for all bid items, including alternates. A complete tabulation shall be furnished showing the breakdown of total appropriated and/or authorized funds. The designer is responsible for bringing the project within the budget as set forth in the design contract.

The subrecipient shall provide plans, permits, and a Competitive Sealed Bid (CSB) to TDOT for review and approval prior to advertising the procurement bid.

## **10.3 Facility Bid and Construction**

In addition to plans and specs, the architect or engineer is responsible for:

- Filing all permits
- Conducting the bid process
- Providing oversight of construction and final closeout
- Development of the Soil and Erosion Control Plan
- Letting the project in accordance with applicable state statutes

A retainage of five percent (5%) may be withheld pending project close out or final audit.

### **10.3.1 Oversight for Construction Projects**

TDOT will provide oversight for construction projects either using TDOT staff or through the services of a consultant. Any project involving new construction of a facility or substantial rehabilitation of an existing facility must be discussed with TDOT to get FTA determination for the need for information supporting a Categorical Exclusion (CE) and the applicability of any additional environmental requirements. If an Environmental Assessment (EA) is required, further steps to develop the project will not be authorized (e.g., property acquisition, final design, and construction) until FTA makes a final environmental finding for the project.

A number of environmental statutes, orders, and compliance procedures may apply to a given project even if it is properly classified as a Categorical Exclusion (CE). The environmental requirements which may come into play include the following: Clean Air Act (CAA) conformity provisions; protection of public parkland, wetland and waterfowl refuges, and historic sites (49 USC 303); Section 106 of the National Historic Preservation Act (protection of historic and archaeological resources); and Section 404 of the Clean Water Act (Army Corp of Engineers' permit requirements for dredge and fill activities in "waters of the United States").

#### **10.3.1.1 Buy America**

As discussed in the chapter addressing procurement, all construction contracts must comply with Buy America requirements. Assuring Buy America compliance is a key component of the oversight that TDOT will provide for construction projects.

#### **10.3.1.2 Davis-Bacon Act**

Davis-Bacon Act applies to all construction with a value over \$2,000 that is funded through FTA. Davis-Bacon compliance is reviewed by TDOT during the construction process. TDOT requires all subrecipients to include in their supporting documentation for invoices on construction related projects all the WH-347 forms completed for the invoice period for which federal funds have been expended.

#### **10.3.1.3 Americans with Disabilities Act**

All facilities constructed using FTA funds will comply with applicable provisions of the Americans with Disabilities Act (ADA).

#### **10.3.1.4 Disadvantaged Business Enterprise Participation**

Subrecipients are encouraged to reach out to TDOT-Certified Disadvantaged Business Enterprises. TDOT may require evidence of good faith effort to attract DBE firms. Subrecipients must track DBE participation and report this information to DMTR.

#### **10.3.1.5 Bid Tabulation**

Bid tabulation and formal requests for funding should be submitted to TDOT for review after bids are opened. Concurrence by DMTR is required prior to entering into a contract with a recommended contractor. Applicable documentation must be submitted to the TDOT for review and approval. Third-party contract documents must also be reviewed by TDOT to ensure that applicable federal clauses are included. A subrecipient may only enter into a contract with the selected contractor after TDOT has provided written approval.

#### **10.3.1.6 Requests for Reimbursement**

Subrecipients' requests to TDOT for reimbursement shall be submitted on a monthly basis with supporting documentation. Requests for reimbursement must be completed and signed by the subrecipient and must be accompanied with an itemized list of activities completed, invoices from contractors, evidence of payment, contractor DBE reporting information and Davis-Bacon documentation.

#### **10.3.1.7 Prompt Payment of Subcontractors**

Under a contract that includes FTA funds, the prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contract receives from TDOT. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of TDOT. This clause applies to both DBE and non-DBE subcontracts.

### **10.3.2 Change Order Procedures**

No change in the construction from the approved plans and specifications shall be made until a change order has been duly prepared and approved by TDOT, except in the case of an emergency that may endanger life or property.

The following procedures and conditions apply in processing a change order:

- Change orders shall be submitted by the architect or engineer to the subrecipient and shall be accompanied by a complete breakdown showing computation of the cost together with a written explanation of the change and reasons for change.
- The designer, by submitting the change order on behalf of the subrecipient, certifies that he/she has examined and analyzed the change order and has found it to be in order, and the cost reasonable.
- The subrecipient shall forward a copy of the change order to the DMTR for final approval.
- Incomplete change orders will be returned for correction and completion. Note that the cost breakdown must justify the change in cost.



### **10.3.3 Final Inspection and Appraisal**

Final inspection of work performed by a competent inspector is the responsibility of the subrecipient. TDOT staff may participate in the final inspection. A copy of the final inspection report shall be submitted to TDOT with final invoice for payment. Any retainage will be released after the subrecipient has certified all contract obligations.

### **10.3.4 Final Appraisal**

Final appraisal of the facility shall be completed within six (6) months from the date of completion.

## Chapter 11. Asset Management

All assets acquired using federal funds for which TDOT was the Direct Recipient shall be used and disposed of in accordance with the applicable FTA program circulars, FTA Circular 5010.1D (as amended) and 49 CFR 18. The table below identifies the three types of assets that require tracking and the asset management requirements that apply.

Types of Assets	Asset Management Requirements for TDOT's Subrecipients of FTA Funds
<ul style="list-style-type: none"> <li>• Vehicles</li> <li>• Equipment</li> <li>• Real Property</li> </ul>	<ul style="list-style-type: none"> <li>• Inventory</li> <li>• Maintenance Plans</li> <li>• Inspection Records</li> <li>• Proof of Insurance and Certifications</li> <li>• Permissible Uses</li> <li>• Useful Life Standards</li> <li>• Disposal</li> <li>• Transfer</li> <li>• Proof of Ownership</li> </ul>

In order to avoid duplication of efforts between TDOT and FTA, TDOT has less rigorous documentation requirements for subrecipients that are also subject to direct FTA oversight (agencies that are Direct Recipients of 5307 and 5339 funds) compared to subrecipients for which TDOT is solely responsible for providing oversight (agencies that are not Direct Recipients of 5307 and 5339 funds). Key differences between the asset management requirements for these different categories of subrecipients are summarized in the table below. In the discussion to follow, a distinction is made between “FTA-Led” subrecipients and “TDOT-Led” subrecipients based upon which entity has primary responsibility for oversight.

	FTA-Led Subrecipients (Subrecipients Subject to Direct FTA Oversight)	TDOT-Led Rural Subrecipients (Subrecipients Only Subject to TDOT Oversight)	TDOT-Led 5310 Private Non-Profit Subrecipients (Subrecipients Only Subject to TDOT Oversight)
Submitting Asset Inventory	Annual	Semi-Annual	Not required to submit to TDOT
Vehicle Title	Held by Subrecipient	Held by TDOT	Held by TDOT
Permission to Dispose of Assets After Reaching Useful Life	Advance permission from TDOT not required	Advance permission from TDOT required	Advance permission from TDOT required
Permission to Dispose of Assets Prior to Reaching Useful Life	Advance permission from TDOT required	Advance permission from TDOT required	Advance permission from TDOT required
Submitting Written Maintenance Plans to TDOT	Not required to submit to TDOT	Required	Required
Submitting Inspection Records to TDOT	Not required to submit records to TDOT	Required	Required

In the event that an FTA-Led subrecipient receives Triennial Review findings from FTA related to asset management, TDOT may require additional reporting or submittal of documentation as deemed appropriate.

## **11.1 Vehicles**

Each vehicle is titled to the subrecipient to ensure their ability to obtain insurance. TDOT has elected not to hold liens on the titles, however, for TDOT-Led subrecipients, the vehicle title will be held at DMTR until the subrecipient requests permission to dispose of the vehicle. FTA-Led subrecipients will hold their own titles.

### **11.1.1 Inventory**

Any vehicles purchased with federal or state funds must be accounted for in subrecipients' vehicle inventory. Equipment that is an integral part of the vehicle does not need to be separately inventoried. For example, a wheelchair lift or destination sign that is part of a vehicle does not need to be inventoried as a separate asset. Vehicles are to be depreciated in accordance with generally accepted accounting principles. However, depreciation expense is not an allowable cost for reimbursement.

TDOT-Led rural subrecipients must submit their vehicle inventory twice per year. FTA-Led subrecipients must submit their inventory once per year. The inventory should contain, at a minimum, the following information:

- VIN, Make, Year, ADA accessible, Type/Description
- Agency-assigned vehicle number (if applicable)
- Delivery date
- Beginning Active Service Date
- Purchase price
- Funding source(s)
- Percentage of federal, state, and local funds
- FTA Grant Number, TDOT Contract Number, and TDOT Project Number
- Location, usage, condition, and current status
- License plate number;
- Check Number to Vendor
- Expected Useful Life
- Depreciation method used by subrecipient
- Projected monthly and or yearly depreciation amount
- Disposal date of vehicle
- Annual Odometer reading (mandatory for rural agencies)

TDOT will reconcile its own perpetual vehicle inventory with the subrecipients' inventories twice per year for TDOT-Led rural subrecipients and once per year for FTA-Led subrecipients. Differences will be investigated and resolved in a timely manner.

### **11.1.2 Maintenance Plans**

Transit systems are required to maintain their property at a high level of cleanliness, safety, and mechanical soundness. Each transit system must establish a maintenance program that, at a minimum, meets the manufacturer's recommendations. Maintenance plans must include preventative maintenance needed for wheelchair lifts. TDOT-Led subrecipients shall provide a copy of their written maintenance plan to TDOT during the application process.

If TDOT determines that a transportation provider fails to use or maintain any asset item properly, the transportation provider will receive written notification and future state and federal assistance may be withheld until adequate measures have been taken to correct the problem. If deemed necessary, TDOT may require the subrecipient to transfer the asset to another transit system or return state/federal funds.

### **11.1.3 Inspection Records**

Annually, TDOT-Led subrecipients must submit documentation of inspections for all assets funded with state and federal funds administered by TDOT. Documentation of inspections, including wheelchair lift inspections, must be maintained and subject to review or request for documentation from TDOT. For rural agencies, TDOT will accept the TN Care required inspections conducted by a third-party contractor.

### **11.1.4 Insurance**

Subrecipients must carry insurance on vehicles, equipment, and facilities to cover the federal interest and state interest in the asset. If a subrecipient is covered by the Tennessee Governmental Tort Liability Act (T.C.A. §29-20-101 et seq.), the following coverage is required:

- Bodily injury or death of any one person in any one accident, occurrence or act \$300,000
- Bodily injury or death of all persons in any one accident, occurrence or act \$700,000
- Injury to or destruction of property of others in any one accident \$100,000

Subrecipients that are not covered by the TCA must carry insurance. The following is the recommended insurance coverage for subrecipients:

- Personal Injury Liability at a minimum of \$300,000 per person and \$1,000,000 per incident.
- Property Damage Liability at a minimum of \$300,000 per incident.
- Comprehensive Coverage with a maximum deductible of \$500.
- Collision Coverage with a maximum deductible of \$500
- Uninsured Motorist Coverage with a minimum of \$50,000 per person and \$100,000 per incident.

Additionally, subrecipients must comply with provisions of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 USC 4012a(a), with respect to any project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

### 11.1.5 Permissible Uses

All assets purchased with state and federal transit funding is intended to support the provision of public transportation. However, TDOT does allow incidental use of assets provided that the incidental use does not interfere with the public transit services for which it was originally obtained. Incidental use is addressed as part of TDOT's on-site compliance reviews.

Certain additional services (such as meal delivery) are permitted within program funding restrictions as long as they are incidental and do not disrupt the general public service normally provided. However, the cost of these incidental services must be fully allocated and mileage associated with the incidental service must not count towards the useful life of the vehicle. If FTA-funded vehicles are used occasionally to deliver meals, TDOT requires nutrition programs to pay the operating costs attributable to meal delivery. FTA capital assistance may not be used to purchase vehicles that are used solely for meal delivery or to purchase specialized equipment (e.g., racks, heating, or refrigeration units) related to meal delivery.

During periods when a vehicle is not needed for specific grant related purposes, it may be used for services to other older adults and people with disabilities. After the needs of these groups have been addressed, the vehicle may be used for transportation of the general public if such use is incidental to the primary purposes of the vehicle. Subrecipients are encouraged to coordinate their resources with other public transportation providers in the service area in order to maximize accessibility and availability of transportation services.

If a TDOT-Led subrecipient wishes to lease FTA-funded vehicles to another entity, written permission must be obtained from TDOT in advance.

### 11.1.6 Useful Life Standards

TDOT establishes minimum useful life standards to ensure that vehicles and other equipment are maintained for transit use for their normal service lives. Useful life of rolling stock (vehicles) begins on the date the vehicle is placed into revenue service and continues as long as it is in service in which TDOT has a vested interest in the operation of the vehicle. If a vehicle is rehabilitated with federal funds, the useful life must be adjusted to reflect the new replacement threshold. TDOT allows vehicles to be replaced once a vehicle has met the useful life age or mileage standard, whichever comes first.

TDOT has adopted the useful life guidelines as they are presented in FTA Circular 5010.1(series):

Vehicle Type	Years of Service	Miles of Service
Large, heavy-duty transit buses including over the road buses (approximately 35'–40', and articulated buses	12	500,000
Small size, heavy-duty transit buses (approximately 30')	10	350,000
Medium-size, medium-duty transit buses (approximately 25'–35')	7	200,000
Medium-size, light-duty transit buses (approximately 25'–35')	5	150,000
Other light-duty vehicles used as equipment and in transport of passengers (revenue service) such as regular and specialized vans, sedans, and light duty buses including all bus models exempt from testing in the current 49 CFR part 665	4	100,000
A fixed guideway steel-wheeled "trolley" (streetcar or other light rail vehicle)	25	NA
A fixed guideway electric trolley-bus with rubber tires obtaining power from overhead catenary	15	NA
Simulated trolleys, with rubber tires and internal combustion engine (often termed "trolley-replica buses")	See appropriate category above	NA

### **11.1.7 Out of Service Vehicles**

If a vehicle is out of service more than thirty (30) days, TDOT-Led subrecipients must request written permission from TDOT DMTR's Asset Monitor for the vehicle to be categorized as "out of service."

Reasons for a vehicle to be defined as "out of service" include, but are not limited to:

- Repairs to major components of the vehicle
- Wheelchair lift not functioning properly
- Accident and/or pending lawsuit
- Natural disaster

For the period of time the vehicle is out of service, the transit provider must ensure that the time does not count toward the minimum useful life and accounting must stop the depreciation calculation. Additionally, incidental service mileage does not count toward the minimum useful life mileage.

Once permission has been granted by TDOT, an ending date will be assigned for the vehicle to be returned to service or disposed of by the agency.

If any vehicle is inspected by TDOT and it is determined by TDOT to be unfit for service, then the vehicle will be taken out of service and not returned to revenue service until the problem is resolved by the subrecipient.

### **11.1.8 Replacement Vehicles**

TDOT-Led subrecipients awarded funds to purchase a replacement vehicle(s) have ninety (90) days from the beginning active service date to initiate the disposal process for the vehicle(s) identified in the subrecipient's application to be replaced.

### **11.1.9 Disposal of Vehicles**

Transportation providers are required to dispose of vehicles that are federally funded, in part or whole, that are no longer needed to support the public transit program. For TDOT-Led subrecipients, vehicles purchased with federal funding may not be disposed of or transferred without advance written permission from TDOT.

#### **11.1.9.1 Disposal after the End of Useful Life**

If an FTA-Led subrecipient disposes of vehicles after the end of their useful life, then a listing of all such vehicles shall be provided to TDOT at the time the inventory is submitted along with an affidavit that all proceeds from the sale will be used to support public transportation purposes.

If a TDOT-Led subrecipient decides to dispose of a vehicle after reaching its useful life, accident or total loss, or transfer to another agency, the subrecipient must request approval from TDOT by providing the following:

- A completed prescribed memo “Request for Tennessee Title for Disposal”
- Two (2) appraisals
- If the vehicle has been destroyed, then the insurance documentation is required rather than the appraisals

DMTR’s Asset Monitor reviews the submitted documents for correctness. After the review, the Asset Monitor retrieves the Tennessee Certificate of Title from the vehicle file and sends it to the subrecipient via certified mail. The Asset Monitor notes in the perpetual vehicle inventory worksheet that the vehicle is in the disposal process. The TDOT-Led subrecipient shall submit the final disposal paperwork within ninety (90) days of receiving the Certificate of Title from TDOT. If there is a delay in the disposal process, then written justification must be provided to the Asset Monitor.

Following the disposal of the asset, the subrecipient submits the following documents:

- Final Disposal of Capital Asset Vehicle Information Sheet
- Copy of receipt or Bill of Sale
- Copy of front and back of Tennessee title with signatures
- Copy of check (if applicable)
- Copy of the deposit slip if equity received is over \$5,000
- Letters (if needed)
  - A letter is required for all vehicles sold equal to or over \$5,000 stating where the funds will be allocated.
  - If a vehicle is transferred, then letters of acknowledgement from each agency is required to verify the transfer is complete.

DMTR’s Asset Monitor then updates the perpetual vehicle inventory worksheet and the disposal worksheet to document the vehicle disposal. The Asset Monitor and DMTR’s Director or Assistant Director then signs the Final Disposal Sheet and documentation is retained per the requirements of Records Disposition Authorization 11026.

Proceeds from the sale of vehicles with a federal or state interest must be used in the local transit program or returned to TDOT. Proceeds from the sale of vehicles may not be used for other programs operated by the subrecipient’s agency.

#### **11.1.9.2 Disposal of Vehicle Prior to the End of Useful Life**

All subrecipients must submit a written request to dispose of a vehicle prior to the end of its useful life. A request for vehicle disposal must be accompanied by the following:

- Justification for the disposal
- Vehicle Identification Number (VIN)
- Two (2) appraisals

If the justification for early disposal is based on extenuating maintenance issues, the request must also include:

- Description of the maintenance issues encountered
- The number of days in the shop within the past twelve (12) months
- The total cost of repairs since the vehicle was purchased along with a copy of any repair bills over \$1,000
- Maintenance records for the vehicle

TDOT shall review documentation included in the request for disposition and provide written response to the subrecipient.

If a subrecipient has a vehicle that has not reached the end of its useful life but is no longer needed for revenue service, such vehicles may be made available for transfer to another transit system in the state with a demonstrated need to use the vehicle through the remaining useful life. In such a circumstance, the responsibilities of each party are outlined below.

Transferring Agency	<ul style="list-style-type: none"><li>• Determine under which program the vehicle(s) were purchased;</li><li>• Submit a request for disposal and required appraisals to DMTR Director</li><li>• Submit vehicle maintenance history and records;</li><li>• Provide the vehicle title to the Receiving Agency;</li><li>• Enter a disposal date on the Perpetual Vehicle Inventory form.</li></ul>
Receiving Agency	<ul style="list-style-type: none"><li>• Submit documentation (resolution) from the governing body to DMTR stating their willingness to accept the vehicle and all associated obligations</li><li>• Submit a scope of work regarding the type of usage for the vehicle;</li><li>• Add the vehicle to the Perpetual Vehicle Inventory sheet.</li><li>• Title and Register the vehicle in the Receiving Agency's name.</li></ul>
TDOT DMTR	<ul style="list-style-type: none"><li>• TDOT receives the subrecipient's request to transfer a vehicle;</li><li>• DMTR's Asset Monitor reviews the documents to determine what, if anything, is necessary to bring the vehicle(s) into compliance with current FTA regulations;</li><li>• DMTR's Asset Monitor will update the title file with the transfer information.</li></ul>

## 11.2 Equipment

"Equipment" is defined as an article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds \$5,000. The subrecipient is responsible for the accountability, maintenance, management, and inventory of all property purchased with federal or state funds in a grant contract. Any loss or equipment disposal shall be reported to TDOT.

### 11.2.1 Equipment Inventory

Equipment purchased with federal or state funds must be accounted for in the subrecipient's equipment inventory list. Equipment is to be depreciated in accordance with generally accepted accounting principles. However, depreciation expense is not an allowable reimbursable cost to federal programs if purchased, in part or in whole, with federal funds.



TDOT-Led rural subrecipients must submit an equipment inventory list to TDOT twice per year. FTA-Led subrecipients must submit an equipment inventory list once per year. The inventory should contain, at a minimum, the following information:

- General description of equipment, manufacturer, and serial number
- Agency-assigned number - mandatory for any equipment without a serial number
- Purchase price
- Funding source
- Percentage of federal, state, and local funds
- FTA Grant Number, TDOT Contract Number, and TDOT Project Number
- Purchase date and beginning active service date
- Location, usage, condition, and current status
- Check number to vendor
- Expected useful life (see Section 11.2.6)
- Depreciation method used by subrecipient
- Projected monthly and/or yearly depreciation amount
- Disposal date
- Date of most recent annual inspection

TDOT will reconcile the statewide Perpetual Equipment Inventory with each TDOT-Led rural subrecipient's list twice per year. Additionally, the equipment list will be traced to the agency fixed asset listing during on-site visits and/or reviews. Differences will be investigated and resolved in a timely manner. Subrecipients are responsible for the accountability, maintenance, management, and inventory of all equipment purchased totally or in part with federal or state funds. FTA-Led urban and TDOT-Led rural subrecipients will maintain a perpetual inventory system for all equipment purchased with federal or state funds. Subrecipients will tag equipment with an identification number which will cross-reference the equipment item on the equipment inventory list. Subrecipients must physically verify all inventory equipment annually.

TDOT-Led rural subrecipients are required to notify TDOT in writing of any equipment loss or damage. TDOT-Led rural subrecipients shall request written approval from TDOT for any disposal of equipment purchased with federal or state funds.

### **11.2.2 Maintenance Plans**

TDOT-Led rural subrecipients must include equipment maintenance provisions in the maintenance plan submitted to TDOT. The maintenance plan should also address the subrecipients' warranty recovery program in the event that equipment under warranty fails.

### **11.2.3 Inspection Records**

TDOT-Led rural subrecipients are required to submit to TDOT a basic equipment inspection annually on all equipment listed in the Perpetual Equipment Inventory list.

### **11.2.4 Insurance**

Subrecipients must have insurance coverage for replacement of equipment in the event of a fire or theft. Additionally, subrecipients must comply with provisions of Section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 USC §4012a(a), with respect to any project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

### **11.2.5 Permissible Uses**

Subrecipients that may be multi-purpose agencies (cities, human resource agencies, development districts, etc.) must either affirm that the equipment will be dedicated to public transit use or prepare a cost allocation proposal. Such a proposal must either show what percentage of use of the proposed equipment will be dedicated to transit or show the transit percentage of use of an overall multiple-equipment package. (Example: transit may buy a network printer used by others, but in return have free use of a color copier funded by another program.)

If a subrecipient wishes to lease FTA-funded equipment to another entity, written permission must be obtained from TDOT in advance.

### **11.2.6 Useful Life Standards**

The expected useful life of equipment varies widely. At a minimum, the useful life should extend to the end or the warranty period for the equipment. Subrecipients should include the warranty expiration in their equipment inventory. If the useful life for the equipment is different than the warranty period, subrecipients should note the reason in the inventory.

### **11.2.7 Disposal**

Transit systems are required to dispose of equipment that are federally funded, in part or whole, that is no longer needed for the purpose for which it was acquired to support the public transit program. To initiate the disposal process, the TDOT-Led rural subrecipient must submit the following documents to TDOT:

- Request for Permission to Dispose of Equipment Capital Asset. Once the request has been approved by TDOT, then the required support documentation is required to be submitted within ninety (90) days of the approved request.
- Final Disposal of Capital Asset Equipment Information Sheet
- Copy of Receipt or Bill of Sale for the equipment
- Copy of Check (if applicable)
- Letters (if needed)
  - A letter is required for all equipment sold for over \$5,000 stating how proceeds from the sale will be used.
  - If equipment is transferred, a letter of acknowledgement from the receiving agency is required to verify the transfer.

DMTR staff updates the Perpetual Equipment Inventory list and the disposal list to reflect the equipment disposal. The Asset Monitor and DMTR's Director or Assistant Director signs the Final Disposal Sheet and documentation is retained per the requirements of Records Disposition Authorization 11026.

Subrecipients disposing of equipment with a federal interest must use all sale proceeds for public transportation purposes or return funds to TDOT. Proceeds from the sale of equipment may not be used for other programs operated by the subrecipient's agency.

## **11.3 Real Property**

### **11.3.1 Inventory of Real Property**

Real property purchased or improved with federal funds that passed through TDOT must be accounted for in the subrecipient's Real Property Inventory list. TDOT-Led rural subrecipients submit their inventory to TDOT twice per year. FTA-Led subrecipients submit their inventory to TDOT annually. The list shall contain, at a minimum, the following information:

- Description of the property with the name of the builder, if applicable
- Total Cost
- Funding source
- Percentage of federal, state, and local funds
- FTA Grant Number, TDOT Contract Number, and TDOT Project Number
- Start and ending date of construction
- Beginning active service date
- Address, usage, condition, and status
- Depreciation method (only applicable for buildings not property)
- Projected monthly and/or yearly depreciation amount (only applicable for buildings not property)
- Annual inspection
- Deed and insurance information
- Agency Assigned ID Number

TDOT will reconcile the statewide Perpetual Real Property Inventory with each subrecipient's list either once or twice per year depending on the submission schedule. Differences will be investigated and resolved in a timely manner.

### **11.3.2 Maintenance Plans**

TDOT-Led rural subrecipients must include real property maintenance provisions in the maintenance plan submitted to DMTR, which includes checklists or forms pertaining to the use of the real property.

### **11.3.3 Inspection Records**

TDOT-Led rural subrecipients are required to submit a Basic Real Property Inspection Form annually on all properties listed in the inventory list. Subrecipients will receive on-site visits to verify the usage of the real property based on risk factors and assessments.

### **11.3.4 Insurance**

Subrecipients must hold an insurance policy on real property sufficient to replace or repair damaged structures in the event of fire or storm damage. Additionally, subrecipients must comply with provisions of Section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 USC §4012a(a), with respect to any project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

### **11.3.5 Permissible Uses**

Any real property acquired with FTA funds must serve the primary purpose of providing public transportation service. Examples of such facilities include transit transfer stations, administrative buildings for transit agencies, and maintenance facilities.

TDOT encourages incidental uses of real property that may raise additional revenues for the transit system or, at a reasonable cost, enhance system ridership. The incidental uses of real property must be compatible with the original purposes of the contract and must be approved by TDOT prior to implementing such incidental use. If a subrecipient wishes to lease FTA-funded real property to another entity, written permission must be obtained from TDOT in advance. Incidental use of real property is subject to the following considerations:

- **Needed Property:** this policy applies only to property that continues to be needed and used for a project or program. It is the intention of DMTR to assist only in the purchase of property that is needed for an FTA project
- **Purpose and Activity:** the incidental use must not compromise the safe conduct of the intended purpose and activity of the initial public transit project activity
- **Continuing Control:** incidental use must not in any way interfere with the continuing control over the use of the property or its continued ability to carry out the project or program
- **Non-Profit Use:** DMTR is interested in encouraging incidental use as a means of supplementing transit revenues; however, non-profit uses are also permitted

#### **11.3.5.1 Excess Real Property Inventory and Utilization Plan**

Excess property is property that the subrecipient determines is no longer required for its needs or fulfillment of its responsibility under an FTA/state-assisted grant. Property no longer needed shall be used for other purposes or removed from service. Subrecipients are required to notify TDOT when federal interest property is put to additional or substitute use. If a subrecipient has excess property then the subrecipient must prepare or update an Excess Real Property Utilization Plan. This plan lists each real estate parcel acquired with participation of federal/state funds that is no longer needed for approved FTA/state project purposes and states how the subrecipient plans to use or dispose of the excess real property.

### **11.3.6 Useful Life Standards**

There is no end to the useful life of real property. There is a federal interest in real property purchased in whole or in part with federal funds as long as the subrecipient owns the property.

### **11.3.7 Disposal**

Disposal of real property is a rare occurrence. In the event that disposal is necessary, the subrecipient will contact TDOT prior to taking any action. TDOT will work with the subrecipient and FTA to ensure that the disposal complies with all requirements. TDOT may issue a task order for technical assistance from the on-call consultant team. Insurance proceeds or proceeds from the sale of federal or state interest real property must be used for public transportation purposes or returned to TDOT.

## Chapter 12. Civil Rights

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TDOT must ensure that subrecipients are in compliance with all civil rights requirements that apply to Tennessee Department of Transportation (TDOT) and Federal Transit Administration (FTA) assisted projects and activities. The applicable civil rights program areas are:

- Americans with Disabilities Act of 1990 (ADA)
- Section 504 of the Rehabilitation Act of 1973
- Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.)
- Environmental Justice
- Equal Employment Opportunity (EEO)
- Disadvantaged Business Enterprise (DBE)
- Limited English Proficiency

### 12.1 Americans with Disabilities Act (ADA)

#### 12.1.1 ADA Requirements for Facilities

All facilities constructed by subrecipients using FTA funds must comply with relevant ADA requirements. TDOT staff and/or an on-call consultant will provide technical assistance to ensure ADA compliance.

#### 12.1.2 ADA Requirements for Transit Service

Subrecipients must comply with all federal regulations pertaining to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. At the time of application, subrecipients must certify by signing and submitting the Certification of Equivalent Service form that service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. In addition, subrecipient's applications must provide documentation demonstrating that such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

- Response time
- Fares
- Geographic service area
- Hours and days of service
- Restrictions on trip purpose
- Availability of information and reservation capability
- Constraints on capacity or service availability

TDOT staff will be available to provide guidance to applicants on the analysis and documentation required to demonstrate that service offered to individuals with disabilities is equivalent to the level and quality of service offered to individuals without disabilities. The certification is valid for one year and must be resubmitted on an annual basis. Subrecipients that operate fixed-route transit service must also provide required paratransit service per federal requirements. ADA compliance is evaluated during on-site compliance reviews. In the event that an ADA-related complaint is received by TDOT, DMTR works with TDOT's designated ADA Coordinator to address the issue.

### **12.1.3 ADA Complaint Procedures**

TDOT provides oversight for subrecipients' compliance with ADA requirements. Subrecipients must report all ADA complaints to TDOT within thirty (30) days of the alleged act of discrimination. When there is an ADA complaint, TDOT's ADA Coordinator investigates the situation. Records about complaints and their resolutions are maintained by the ADA Coordinator.

## **12.2 Title VI and Environmental Justice**

The Tennessee Department of Transportation (TDOT) is a "primary recipient" of federal transportation funds. As a regulatory condition of receiving these funds, TDOT is required to administer a program that establishes Title VI goals and objectives which pertain to highway and transportation programs. TDOT Civil Rights Office (CRO) is responsible for administering, implementing, monitoring compliance with the Title VI program and investigating Title VI compliance alleging discrimination. The focal point of nondiscrimination law is Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin. However, the broader application of nondiscrimination law may be found in other statutes, regulations, and executive orders. Discrimination based on gender, disability, and age is prohibited as well as inequitable treatment of persons as a result of projects which are undertaken with federal financial assistance. The Civil Rights Restoration Act of 1987 clarified the intent of Title VI to include all programs and activities whether they are federally funded or not.

The CRO is responsible for initiating and monitoring the activities of all TDOT Divisions, all program areas, and oversight of subrecipients for Title VI compliance. TDOT's Title VI Plan delineates what TDOT will do to prevent discrimination in federally funded activities, projects, how it will achieve this objective, and identifies the procedures for ensuring Title VI compliance.

Title VI assurances are the foundation of TDOT's commitment to nondiscrimination. TDOT monitors its subrecipients for compliance with the principles specifically set forth in the law. TDOT also acknowledges its responsibilities to work toward increased effectiveness regarding Title VI compliance.

The CRO utilizes a staggered monitoring process to accomplish the mission of reviewing and monitoring TDOT's subrecipients for compliance. TDOT's Title VI staff evaluates the past performance of its subrecipient. If the subrecipient has demonstrated a commitment to Title VI and all applicable nondiscrimination mandates and has maintained a strong Title VI Program, whereby, Title VI and all applicable non-discriminatory laws and principles are woven throughout their daily activities, the entity is placed on a three-year review cycle with a requirement to annually affirm there has been no changes in the existing Title VI Program. This annual affirmation process is achieved when the CRO receives a signed "Annual No-Change Affidavit and Assurance" affirming that, at a minimum, no Title VI complaints have been received or that the CRO was notified of receipt of a complaint, and that each subrecipient's Title VI Coordinator's training is current. This review process affords the CRO additional time to provide technical assistance and training to subrecipients who have a marginal Title VI Program or those who require additional assistance in developing a new Title VI program.

### 12.2.1 Title VI Complaints

TDOT administers all FTA programs in accordance with Circular 4702.1B, “[Title VI Requirements and Guidelines for Federal Transit Administration Recipients](#).” Any person who believes that a department or agency receiving federal financial assistance has discriminated against someone on the basis of race, color or national origin may file a complaint. These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, relating to any program or activity administered by TDOT or its subrecipients, consultants, and/or contractors. Intimidation or retaliation of any kind is prohibited by law.

These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Title VI Program Director may be utilized for resolution, at any stage of the process. The Title VI Program Director will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

The following Title VI materials are available by request from the TDOT Civil Rights Division, at TDOT Headquarters or Regional Office, or on the internet as shown below.

TDOT’s Title VI Complaint Procedures	<a href="http://www.tdot.state.tn.us/civil-rights/titlevi/documents/ComplaintProcedures.pdf">http://www.tdot.state.tn.us/civil-rights/titlevi/documents/ComplaintProcedures.pdf</a> .
TDOT Title VI Complaint Form	<a href="http://www.tdot.state.tn.us/civil-rights/titlevi/forms/TitleVIDiscriminationComplaintForm.pdf">http://www.tdot.state.tn.us/civil-rights/titlevi/forms/TitleVIDiscriminationComplaintForm.pdf</a>
TDOT’s Nondiscrimination Poster	<a href="http://www.tdot.state.tn.us/civil-rights/titlevi/documents/Non-discriminationStatement.pdf">http://www.tdot.state.tn.us/civil-rights/titlevi/documents/Non-discriminationStatement.pdf</a>

### 12.2.2 Environmental Justice

In accordance with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations* and FTA Circular 4703.1, *Environmental Justice Policy Guidance for Federal Transit Administration Recipients*, TDOT and its subrecipients are required to make environmental justice part of their agency’s mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and/or low-income populations. Environmental Justice (EJ) includes incorporation of environmental justice and non-discrimination principles into transportation planning and decision-making processes as well as project-specific environmental reviews.



There are three (3) guiding principles of environmental justice:

- 1) To avoid, minimize, and mitigate disproportionately high and adverse effects
- 2) To ensure the full and fair participation by all potentially affected communities
- 3) To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations

TDOT subrecipients are required to conduct an environmental justice analysis, where appropriate, to determine if planned activities/programs/policies will result in a “disproportionately high and adverse effect on human health or the environment.”

TDOT subrecipients are required to have a plan for engaging environmental justice populations in the decision-making process.

## **12.3 Equal Employment Opportunity (EEO)**

All 5311 subrecipients are required to submit assurances indicating their compliance with FTA's EEO objectives as detailed in FTA Circular 4704.1 to TDOT. The following thresholds have been established by FTA:

- Subrecipient receives in excess of \$1,000,000 or receives planning assistance in excess of \$250,000 or more in the previous federal fiscal year
- Subrecipient employs fifty (50) or more transit related employees

If the subrecipient meets or exceeds both thresholds, then they must submit an EEO program documenting their nondiscrimination practices on the basis of race, color, creed, national origin, gender, age, or disability.

### **12.3.1 Affirmative Action Program & EEO Compliance Procedures**

TDOT is required to submit an Affirmative Action Plan (AAP) to Federal Highway Administration (FHWA) with a copy to FTA. FHWA has the lead responsibility for reviewing and approving TDOT's AAP.

Any transit agency with fifty (50) or more transit-related employees AND either receives capital or operating assistance in excess of one (1) million dollars, OR receives planning assistance in excess of \$250,000, must submit an Equal Employment Opportunity (EEO)/Affirmative Action Plan to TDOT every three (3) years. The CRO's Affirmative Action Program staff will provide technical assistance to the DMTR as needed. All eligible subrecipients EEO Plans will be reported to FHWA and FTA annually in the Affirmative Action Plan and/or update.

### **12.3.2 FTA/EEO Complaint Procedures**

All EEO-related complaints will be investigated by the subrecipient's EEO Officer. Subrecipients will be required to compile and submit to TDOT a quarterly report of all EEO complaints. The report shall include the Name of the Complainant, Agency Name, and the Resolution of the Complaint. All FTA related complaints will be reported to FHWA and FTA annually in TDOT's Affirmative Action Plan and/or update.

## **12.4 Disadvantaged Business Enterprise (DBE)**

It is the policy of TDOT to implement the provisions of 49 CFR Part 26 with the following objectives:

- To ensure nondiscrimination in the award and administration of United States Department of Transportation assisted contracts in TDOT's highway, transit, and airport financial assistance programs
- To create a level playing field on which DBE's may fairly compete for DOT assisted contracts
- To ensure that TDOT's DBE Program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet the eligibility standards specified in 49 CFR Part 26 are permitted to participate as DBEs
- To help remove barriers to the participation of DBEs in DOT-assisted contracts
- To assist the development of firms that can compete successfully in the marketplace outside the DBE Program

### **12.4.1 Establishment of DBE Goals**

TDOT is in FTA Group C for the purposes of reporting DBE goals and is required to establish and submit DBE goals every three (3) years. TDOT's FTA Goal-Setting Methodology and Goal for FY 2015–2017 has been submitted and approved by FTA. The FY 2018–2021 DBE goals for FTA funds will be developed in tandem with TDOT Civil Rights Office of Small Business Development's goal-setting process for FHWA.

The establishment of DBE goals for FTA funds are made every three (3) years in consultation with minority, women, and general contractor groups, community organizations, and other officials or organizations. These parties may provide TDOT with information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and a grantee's efforts to establish a level playing field for the participation of DBEs.

DMTR together with TDOT Division of Civil Rights Small Business Development Program will conduct a consultative process by reaching out to DBEs by email and/or at a workshop to get input into the development of the DBE goal.

A public notice announcing the proposed overall goal and its rationale will be made available for inspection during normal business hours. In summary, the TDOT outreach process is outlined as follows:

1. Meetings to provide public participation.
2. Invitations sent to all DBEs currently on the TNUCP certification list prior to meeting.
3. Public notices are sent out with a 45-day comment period in local papers and media with the three (3) year goal proposed.
4. Any written and verbal comments are recorded and plan revised to address the consultation process.

DBE goals for specific projects may vary from the long-range DBE goal; however, overall DBE usage should be consistent with meeting the established goal. In the event that the actual expenditure for goods and services provided by DBEs fails to meet the established DBE goal, TDOT will perform a shortfall analysis per FTA guidelines and determine whether corrective action is necessary.

### **12.4.2 DBE Monitoring**

DBE Liaison officer for DMTR will be responsible for the monitoring and operation of the DBE program in consultation with the TDOT Division of Civil Rights Small Business Development Program and DMTR grant monitoring staff. The DBE liaison will be the main contact for the Department for all issues related to the DBE Program.

Subrecipients will be required to ask all DBE firms working on a federally funded project to complete a Commercially Useful Function Checklist and to submit it to TDOT DMTR. The DBE liaison officer will work with the transit monitoring unit to review the completed checklist and follow up with a field visit to the project location if required. Subrecipients are required to confirm that the DBE itself is performing a commercially useful function (CUF) and it is carrying out its responsibilities by actually performing, managing, and supervising the contract or subcontract work. All DBE prime contractors and subcontractors will be required to participate in the CUF.

## **12.5 Limited English Proficiency**

TDOT subrecipients are required to conduct a Four-Factor Analysis of their respective service area at least once every four (4) years. TDOT's DMTR is assisted by TDOT's Civil Rights Division in providing oversight for LEP compliance. The need for enhanced language services increases with the following factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee
- The frequency with which LEP individuals come in contact with the program
- The nature and importance of the program, activity, or service to people's lives
- The resources available to the recipient and costs associated in providing the resources

After completing the above four-factor analysis, subrecipients may determine the appropriate “mix” of LEP services required. Subrecipients are required to have established LEP procedures in place and to train staff on the established procedures. Subrecipients have two main ways to provide language services: 1) oral interpretation, either in person or via telephone interpretation service, and 2) written translation. The correct mix of language service provisions shall be based on the results of the Four-Factor Analysis and what is deemed both necessary and reasonable.

## **12.6 Uniform Relocation Assistance and Real Property Acquisition Policies Act**

The subrecipient agrees to comply with 49 USC §5324(a), which requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC §4601 et seq.; and with U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR Part 24. TDOT shall be kept informed and involved in all phases of planning and construction.

## Chapter 13. Drug and Alcohol

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### 13.1 State Drug-Free Workplace Compliance

TDOT Policy Number: 230-02, “Drug-Free Workplace Policy,” was adopted November 7, 2003, and is administered by TDOT’s Division of Human Resources. Authority is drawn from:

- Title 41 USC Section 702
- Tennessee Department of Human Resources publication *Tennessee State Employee Handbook*
- Tennessee Code Annotated (TCA) 4-3-2303

The policy applies to all TDOT employees and employees must sign a form acknowledging the policy at the time of employment. It is the policy of the Department to adhere to federal and state laws, rules and policy concerning a drug-free workplace. It, therefore, is unlawful and prohibited to manufacture, distribute, possess or use a controlled substance in or on the workplace. Such manufacture, distribution, possession or use while on the job or state property will subject the violator to discipline up to and including termination.

Each employee is required by law to inform TDOT within five (5) days after he or she is convicted for violation of any federal or state criminal drug statute that occurred while on state property. A conviction means a finding of guilt (including a plea of *nolo contendere*) or the imposition of a sentence by a judge or jury in any federal or state court. TDOT must then notify the FHWA and FTA within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of such a conviction.

If an employee is convicted of violating any criminal drug statute while on the workplace, he or she will be subject to discipline up to and including termination. Alternatively, the Department may require the employee to successfully finish a drug abuse program. As a condition of employment or continued employment, the law requires all employees to abide by this policy.

Tennessee offers an employee assistance program called the ParTNers EAP that is a resource for employees struggling with drug or alcohol problems as well as a wide range of other issues. This benefit is available to full-time employees and eligible dependents regardless of whether or not they are enrolled in health coverage. The EAP also offers seminars on various issues of interest at locations across the state.

## 13.2 Subrecipients' Drug and Alcohol Programs

Recipients of 5311 funds are required to have a drug and alcohol testing program with a written policy. The purpose of the testing program is to help prevent accidents, fatalities, and injuries resulting from misuse of alcohol or the use of prohibited drugs by employees who perform safety sensitive functions. Compliance with the regulations is a condition of FTA funding. Where applicable, recipients of FTA funding are also required to comply with drug and alcohol requirements of the Federal Railroad Administration (FRA), to comply with the Federal Motor Carrier Safety Administration (FMCSA), and to comply with the United States Coast Guard (USCG). Recipients or subrecipients that receive only Job Access and Reverse Commute (JARC), New Freedom, 5339 or 5310 assistance are not subject to FTA's drug and alcohol rules, but must comply with the FMCSA's drug and alcohol testing rule for employees who hold commercial driver's licenses.

FTA's rule requires testing of employees who perform a safety-sensitive function, which is defined in 49 CFR 655.4. The rule requires the following six (6) types of testing:

- Pre-employment for drugs (including transfer from a non-safety-sensitive position to a safety sensitive position)
- Reasonable suspicion
- Random
- Post-accident
- Return-to-duty
- Follow-up

The rule requires each employer to establish and implement a substance abuse prevention program consisting primarily of a testing program but with elements requiring training, educating, and evaluating safety-sensitive employees. The rule requires the development of a detailed policy statement that must be distributed to all safety-sensitive employees and employee organizations. In addition, the 49 CFR Part 655 Subpart D establishes alcohol concentration levels and prohibited behavior, and employers are directed to take specific action on the basis of the level of alcohol concentration.

TDOT provides oversight for subrecipients' drug and alcohol programs during on-site compliance reviews and through periodic monitoring by the DMTR staff responsible for drug and alcohol program compliance. TDOT provides technical assistance in the area of drug and alcohol policy development to subrecipients. A template for a drug and alcohol policy is available to subrecipients as guidance. Subrecipients may adopt a plan using the template provided or they may develop their own plan. Subrecipients are requested to send any changes made to the Drug and Alcohol Program adopted by their governing body to TDOT within two (2) weeks of the change. TDOT reviews subrecipients' drug and alcohol policy as part of compliance monitoring. Various trainings on drug and alcohol oversight are also provided through contractors.

TDOT will require all 5311 subrecipients provide TDOT documentation verifying that all parties involved in drug/alcohol testing (MROs, SAP, etc.) are appropriately and currently certified to perform their respective functions.

## Chapter 14. Other Provisions

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### 14.1 Complaint Procedures

#### 14.1.1 Local Complaint Procedures

TDOT requires all local transportation providers to have procedures in place for logging complaints and addressing them in a manner that incorporates due process. Complaint procedures are reviewed during on-sight compliance reviews. The following are recommendations on what subrecipients' procedures should provide:

- A detailed description of the procedures for filing a complaint
- Prompt and equitable resolution
- An opportunity for the complainant to provide additional information
- Notification to complainant of who to contact regarding the status of the complaint
- An appeal procedure

#### 14.1.2 State Complaint Procedures

A complaint submitted to TDOT should detail the exact nature of the complaint and be accompanied by sufficient information to enable the Compliance Supervisor to make a preliminary determination as to whether probable cause exists to believe that a violation has taken place. The Compliance Supervisor may undertake an investigation process when this is deemed necessary. If further action is desired by the complainant, the FTA procedure may be followed.

Complaints are to be sent to:

Attention: Compliance Supervisor

TDOT Division of Multimodal Transportation Resources

James K. Polk Building

505 Deaderick Street, Suite 1800

Nashville, Tennessee 37243

### 14.2 Records Retention and Disposition

As of October 2012, the Office of the Secretary of State began oversight of the Records Management Division. The Records Management Division (RMD) was established by Tennessee Code Annotated 10-7-303 to assist state agencies in establishing systematic controls for the efficient use and sound preservation of state records. The RMD serves as the primary records management agency for the State of Tennessee and provides professional consultative and analytical records management leadership to agencies.

The RMD is further directed by the Public Records Commission (PRC) to serve as administrative liaison between state agencies and the PRC, to establish procedural guidelines for paper and electronic records oversight and retention, and to coordinate efforts supporting the state's Paperwork Reduction and Simplification Act of 1976 (TCA 4-25-101).

Tennessee's Public Records Committee approved a Records Disposition Authority (RDA #11026 for FTA-funded grants) which requires that public records pertaining to federal grant programs will be retained for five (5) years after the later of the last transaction date under the grant or the last disposal date of the last inventoried asset remaining that was purchased with grant funds. Paper records may be stored and/or the scanned documents will be maintained on TDOT's FileNet. After confirming that all records are stored on FileNet, TDOT may destroy the paper records. Documentation, either paper or electronic, will be maintained until five (5) years following the later of the last transaction date under the grant or the last disposal date of the last inventoried asset remaining that was purchased with grant funds.

Subrecipients are subject to records retention requirements which are addressed in the contract between TDOT and FTA subrecipients. All subrecipients, contractors, and subcontractors shall maintain all documentation for a period of time specified in their contract with TDOT. Beginning July 1, 2014, TDOT will require subrecipients to maintain documentation for each contract until they receive permission from TDOT's DMTR to dispose of those records. TDOT will not provide permission to dispose of documentation until five (5) years after the later of the last transaction date under the grant or the last disposal date of the last inventoried asset remaining that was purchased with grant funds (the same point in time that TDOT will destroy the records for a given FTA grant). The exact date when subrecipients may dispose of records is not known at the time the contract is developed because it is not known when the last asset disposal will take place.

### **14.3 Employee Protection Provisions of 5333(b) (5311)**

Subrecipients must assure compliance with the provisions of Section 5333(b) of the Federal Transit Act. The subrecipient shall indicate that the project will be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the 5311 grant program and/or of any other surface public transportation provider in the service area of the project.

### **14.4 Restrictions on Lobbying**

Recipients of federal grants from any source exceeding \$100,000 annually must certify that they have not and will not use federally appropriated funds for lobbying. State agencies administering 5310 and 5311 programs certify to the FTA and 5310 and 5311 subrecipients certify to TDOT. State agencies and subrecipients must also impose lobbying restrictions on their third-party contractors and must obtain certifications from the contractors stating such restrictions compliance. Lobbying is defined as influencing or attempting to influence an officer or employee of any federal department or agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining a federal grant, cooperative agreement, or any other federal award.

<b>Lobbying</b>	<b>Not Lobbying</b>
<ul style="list-style-type: none"> <li>• Influencing federal officials about specific grants or legislation</li> <li>• Asking legislators (federal or state) for support of a particular application or bid</li> </ul>	<ul style="list-style-type: none"> <li>• Submitting grant applications,</li> <li>• Status inquiries</li> <li>• Professional and technical advocacy for the transit programs in general.</li> </ul>



Subrecipient responsibilities include:

- Signing a certification of compliance pertaining to lobbying activities;
- Obtaining a signed certification of compliance from third-party contractors;
- Completing a Standard Form LLL (Disclosure of Lobbying Activities) and submitting to DMTR if non-federal funds have been used to support lobbying activities in connection with a grant from DMTR, and the subrecipient receives federal grants exceeding \$100,000
- Obtaining a completed Standard Form LLL from the contractor and submitting to DMTR if the contractor receives more than \$100,000 in federal funds and use non-federal funds to support lobbying

## 14.5 Charter Rule

Federal transit law prohibits recipients of federal financial assistance from providing charter service, except under certain circumstances. TDOT uses the FTA's definition of charter service.

Subrecipients of FTA funds in Tennessee must meet all FTA requirements for provision of charter service.

- Subrecipients that wish to provide charter service must receive advance approval from TDOT. TDOT will review the subrecipient's request based on FTA requirements to determine whether it is allowable.
- Any charter service provided must qualify for one of the exceptions identified by FTA;
- Subrecipients wishing to provide charter service under one of the allowable exceptions to the charter rule must use the FTA's charter website to determine whether any private sector entities are willing and able to provide the requested service.
- Any charter service that is provided by subrecipients must be "incidental." Charter service may not interfere with or detract from regularly scheduled mass transportation service or shorten the life of the equipment or facilities;
- In the event that a subrecipient wishes to provide a type of charter service that requires advance FTA approval (time-sensitive events, events of national or regional significance, and emergency response service), the subrecipient must communicate that intent to DMTR. DMTR will evaluate the request and submit the request to FTA;
- The subrecipient must maintain records of all charter service provided in order to provide this information to TDOT. Charter service reports are due within fourteen (14) days following the end of a fiscal quarter in order to allow TDOT to meet the FTA's reporting deadline of thirty (30) days following the end of a quarter;
- All allowable charter service must be fully allocated with no charge to federally funded programs. No mileage, trips and hours associated with allowable incidental charter shall be represented in the subrecipient's annual operating statistics;
- Charter regulations apply to FTA subrecipients even if the vehicle used for charter service has no federal interest, and even if operating, maintenance, and administration costs are cost allocated. Cost allocation methods may be used to segregate costs of charter services; however, the use of cost allocation methods does not relieve a subrecipient of the requirement to comply with all FTA charter regulations.

In the event that TDOT receives a complaint from a private sector charter service provider and the complainant is not familiar with FTA's charter regulations, TDOT would first direct them to the FTA's charter rule website and suggest that they register as a charter provider. If this does not resolve the problem, staff would investigate the situation and work with the complainant, the subrecipient, TDOT Legal, and FTA to address the situation. TDOT will look to the subrecipient to remedy any claims against the subrecipient in association with charter service in violation of 49 CFR 604. TDOT may bar a subrecipient from receiving further funding if there is a pattern of documented violations.

TDOT reviews compliance with FTA's Charter Rule during periodic on-site compliance reviews.

## **14.6 Prohibition of Exclusive School Transportation**

No subrecipient shall engage in school bus operations using buses, facilities or equipment funded with federal funds. A subrecipient may, however, use such buses, facilities and equipment for the transportation of school students, personnel and equipment in incidental charter bus operations.

## **14.7 "Tripper" Service Regulations**

"Tripper service" is regularly scheduled mass transportation service which is open to the public, and which is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in tripper service must be clearly marked as open to the public and may not carry designations such as "school bus" or "school special." These buses may stop only at regular service stops. All routes traveled by tripper buses must be within a subrecipient's or operator's regular route service as indicated in their published route schedules.

## **14.8 Uniform Relocation Assistance and Real Property Acquisition Policies Act**

Subrecipients must comply with 49 USC §5324(a), which requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC §4601 et seq.; and with U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR Part 24. TDOT shall be kept informed and involved in all phases of planning and construction.

## Chapter 15. Compliance Monitoring

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This chapter discusses the several ways in which TDOT monitors subrecipients for compliance with federal requirements. The nature of monitoring varies somewhat between different types of subrecipients, as shown in the table below.

Type of Subrecipient	Types of Oversight Provided
Rural Transit Agencies	<ul style="list-style-type: none"><li>• Grant Application Process</li><li>• On-Site Reviews Performed at Least Every Three Years</li><li>• Policy 22 Monitoring</li><li>• Reimbursement Procedures</li><li>• Semi-Annual Asset Inventory and Maintenance Oversight</li><li>• Annual A-133 Single Audit</li><li>• Annual Risk Assessment</li><li>• Annual Asset Inspections</li></ul>
Small and Large Urban Transit Agencies	<ul style="list-style-type: none"><li>• Grant Application Process</li><li>• Triennial Reviews Performed by FTA Every Three Years with TDOT attendance</li><li>• Policy 22 Monitoring</li><li>• Reimbursement Procedures</li><li>• Annual Asset Inventory Oversight</li><li>• Annual A-133 Single Audit</li><li>• Annual Risk Assessment</li></ul>
Nonprofit Agencies Serving the Elderly and/or People with Disabilities (5310)	<ul style="list-style-type: none"><li>• Grant Application Process</li><li>• Monthly reporting</li><li>• On-Site Reviews Performed at Least Every Three Years</li><li>• Annual Asset Inventory and Maintenance Oversight</li><li>• Annual A-133 Single Audit</li><li>• Annual Risk Assessment</li><li>• Annual Asset Inspections</li></ul>
MPO	<ul style="list-style-type: none"><li>• Policy 22 Monitoring</li><li>• Reimbursement Procedures</li><li>• Annual A-133 Single Audit</li><li>• Annual Risk Assessment</li><li>• Monthly Quarterly report</li></ul>

### 15.1 Grant Application Process

TDOT uses the grant application process as a compliance monitoring tool. At the time of application, subrecipients provide numerous documents and certifications that are prerequisites for funding under FTA programs. Application requirements are discussed in detail in Chapter 5, Application for Funding.

## **15.2 Periodic On-Site Compliance Reviews**

TDOT will adopt a risk-based approach in conducting on-site periodic compliance reviews of its subrecipients. The purpose of reviews is to identify the strengths and weaknesses of transit systems and identify any need for technical assistance to correct any areas of non-compliance. TDOT will employ the services of its technical assistance consultant to assist in conducting the reviews.

The review process will emulate FTA's Triennial Review and State Management Review Process. The process will consist of both a desk review and an on-site visit by the review team and TDOT. Following each site visit, the consultant review team will issue a report outlining the areas reviewed, compliance deficiencies, actions necessary by the subrecipient to remedy the deficiency, and the timeframe for implementation of corrective actions. Reviews include, but are not limited to:

- Marketing and public relations
- Fares and contract rates
- Accounting practices
- Personnel and labor relations
- Operating practices
- Maintenance
- Charter and school bus services
- Safety and training
- Inventory of assets and real property
- ADA compliance
- Civil rights compliance
- Drug and alcohol compliance

The review is designed to be used as one part of a technical assistance effort. That is, after completion of a review, technical assistance is provided to the subrecipient to improve deficient areas and to document exemplary performance to share with other transit systems.

### **15.2.1 On-Site Reviews of 5311 Subrecipients**

TDOT uses an on-call consulting contract to obtain compliance monitoring assistance and training from TranSystems and their subcontractor, RLS Associates. Moving forward once TDOT staff is in place and trained by the consultant, TDOT will conduct the on-site compliance reviews. TDOT will utilize on-call consultants when deemed necessary due to staff time constraints and/or capacity or at times deemed necessary by the DMTR Director. Using a monitoring guide developed specifically for TDOT's 5311 subrecipients, the consultants and TDOT staff conduct a desk review and a site visit for each subrecipient. The frequency of on-site compliance reviews is tied to the level of risk associated with each subrecipient based on prior year findings, single audit findings, reviews performed by TDOT Finance's External Audit staff, and annual risk assessments completed by subrecipients. The consultants develop a draft report for TDOT review and editing prior to providing the subrecipient with an opportunity to comment on the draft report. The final report identifies all findings and the timeframe within which corrective actions should be implemented. TDOT provides limited technical assistance in developing corrective actions through staff and consultant resources.

### **15.2.2 On-Site Reviews of 5310 Subrecipients**

Using a monitoring field guide developed specifically for TDOT's 5310 subrecipients, TDOT will conduct a desk review and a site visit for each subrecipient at least once every three (3) years. The frequency of on-site compliance reviews is tied to the level of risk associated with each subrecipient based on prior year findings, single audit findings, reviews performed by TDOT Finance's External Audit staff, and annual risk assessments completed by subrecipients. TDOT develops and provides a draft report to the subrecipient with an opportunity to comment. The final report identifies all findings and the timeframe within which corrective actions should be implemented. TDOT provides limited technical assistance in developing corrective actions.

### **15.2.3 On-Site Reviews of Large and Small Urban Subrecipients**

FTA performs triennial reviews of large urban and small urban transit agencies that are Direct Recipients of FTA funds. Going forward, it is the intent of this State Management Plan for TDOT staff to attend the triennial reviews for urban agencies. TDOT obtains a copy of each urban subrecipient's most recent Triennial Review Final Report when urban agencies apply for state operating assistance.

### **15.2.4 Resolution of Findings**

If the compliance review results in findings of noncompliance, the subrecipient will be allowed forty-five (45) business days from the issue date of the report to submit a Corrective Action Plan (CAP) to the TDOT advising how the subrecipient plans to correct the findings. TDOT staff and the consultant assisting in the compliance review may provide limited assistance in developing and implementing the CAP. The CAP must include:

- A statement of whether the subrecipient agrees or disagrees with the finding(s)
- A detailed plan of how the subrecipient will correct each individual finding(s)

Attachment of any documents, forms, policy changes, reports, accounting tools, time sheets, data collection forms, etc. that ensures the subrecipient has corrected the finding(s) shall be included and submitted to TDOT.

### **15.2.5 Repayment of Funds**

When a subrecipient must repay funds, TDOT will issue a Demand Letter to the subrecipient. Payment must be made directly to the Finance Division External Audit Section at the address provided below.

Attention: External Audit Section  
TDOT Division of Finance  
505 Deaderick Street, Suite 800  
Nashville, TN 37243

Subrecipients must respond within thirty (30) business days from the date of the Demand Letter. Documentation of the repayment must be submitted to the DMTR. The subrecipient's response

must indicate how they propose to repay the amount owed, such as through cash transfer, transfer of capital assets, or by withholding of reimbursements under other open grants.

In the event that a subrecipient repays an amount that has already been drawn down from ECHO, TDOT will work with FTA to make any necessary corrections.

### **15.2.6 Termination**

The State may terminate any subrecipient's grant if the subrecipient fails to fulfill its obligation under the grant in a timely or proper manner, or if the subrecipient violates any terms of the grant. TDOT has the right to immediately terminate the grant and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the subrecipient shall not be relieved of liability to the state for damages sustained by virtue of any breach of the grant by the subrecipient. While termination of funding will not be exercised without prior written notice to the subrecipient, any consideration of future grant requests may be influenced by the gravity and extent of irregularities causing termination.

## **15.3 Policy 22 Monitoring**

Tennessee Department of Finance and Administration's Policy 22 establishes the requirements for subrecipient contract monitoring for the State of Tennessee. The policy provides a decentralized statewide department-to-department system for monitoring subrecipient grant allotments to assure programmatic and monetary compliance with the FTA disbursement requirements of cash. The policy is a guide to assist in meeting subrecipient monitoring objectives by defining monitoring requirements and by requiring each state agency to have a well-documented monitoring plan that ensures compliance with applicable state and federal monitoring requirements. Tennessee Code Annotated, 12-4-109(d) indicates that each state department or agency shall be responsible for the effective management of all service contracts under its purview.

### **15.3.1 Responsibilities of DMTR**

Under Policy 22, the Division of Multimodal Transportation Resources is responsible for providing oversight for the following compliance areas:

- Activities Allowed and Unallowed
- Civil Rights
- Davis Bacon Act
- Eligibility

### 15.3.2 Responsibilities of Finance Division External Audit

Under Policy 22, TDOT's Finance Division is responsible for oversight of the financial practices of FTA subrecipients.

## 15.4 Asset Management Oversight

TDOT maintains ongoing continuing control of assets with an FTA interest by systematic inventory and maintenance reporting requirements for agencies. Additionally, clearly defined procedures are in place for disposal of vehicles, transfer of vehicles, and cases where a vehicle is removed from revenue service. Reporting requirements include the following:

- Regularly scheduled reporting by subrecipients:
  - Semi-Annual Asset Inventories (Spring and Fall)
  - Annual Inspection Reports
- Reporting/Documentation Triggered by Specific Actions:
  - Provision of documentation by subrecipients at the time that assets are purchased
  - Provision of documentation by subrecipients prior to asset disposal
  - Provision of documentation by subrecipients subsequent to asset disposal
  - Provision of documentation at the time of accident or loss

## 15.5 Annual A-133 Audit

In compliance with OMB Circular A-133, subrecipients expending \$500,000 or more in federal assistance (prior to December 26, 2014) or \$750,000 (after December 26, 2014) during the subrecipient's fiscal year must submit a single audit to TDOT. Subrecipients not meeting the threshold for a single audit must submit a financial statement in compliance with contractual requirements. The subrecipient's audit or financial statements are due nine (9) months after the close of the reporting period.

When an audit is required, the subrecipient may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the subrecipient and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The subrecipient shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the subrecipient shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Granting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

If a subrecipient (1) fails to submit the required report and documentation before the due date, (2) fails to obtain an extension from TDOT as is appropriate, (3) fails to submit an official extension to TDOT and/ or, (4) fails to respond to the TDOT review, appropriate action will be taken. In cases of continued inability or unwillingness to have an audit conducted in accordance with audit requirements, TDOT will consider taking appropriate action to include, but not limited to, measures outlined in OMB Circular A-133 Subpart B 225: Sanctions.

## **15.6 Annual Risk Assessments**

TDOT requires subrecipients of FTA funds to complete a risk assessment. The risk assessments are compiled and taken into consideration along with other data to determine the appropriate frequency of on-sight monitoring. Other considerations include the number and severity of findings identified by TDOT External Audit, the Comptroller of Tennessee, the A-133 audit, and on-sight compliance reviews performed by TDOT staff and/or consultants.

## **15.7 Reimbursement Procedures**

TDOT monitors subrecipients continuously through the routine process by which subrecipients submit invoices for reimbursement. Requests for reimbursement are accompanied by an invoice checklist that addresses numerous areas on compliance. Program managers at TDOT review the subrecipients' statements of expenditures for correctness as well as the invoice checklist. A Program Manager's Review checklist is also completed to confirm that statements of expenditures have been reviewed and has all the required information prior to approving the payment.